

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

Implementation of Restructuring)	
Legislation (Public Utilities Code)	Docket 96-REN-1890
Sections 381 and 383 [AB 1890]):)	
Renewables)	
)	

COMMISSION HEARING

Re: Policy Report
on AB 1890 Renewables Funding

Thursday, March 20, 1997

10:21 a.m.

Held at the
California Energy Commission
1516 Ninth Street, Hearing Room A
Sacramento, California

REPORTED BY:

A. FLYNN

COMMISSIONERS PRESENT
(Alphabetically Listed)

SALLY RAKOW, Acting Chair

MICHAL MOORE, Presiding Member

ROBERT LAURIE

DAVID ROHY

JANANNE SHARPLESS

STAFF PRESENT
(Alphabetically Listed)

JONATHAN BLEES

CHERI DAVIS

BOB HUFFAKER

SUZANNE KOROSSEC

PRAMOD KULKARNI

MARWAN MASRI

MADALEINE MEADE

SANDY MILLER

TIM TUTT

ALSO PRESENT
(Alphabetically Listed)

CHRISTO ARTUSIO, Environmental Defense Fund

DONALD W. AITKEN, Union of Concerned Scientists

JOHN BERLIN, Northern California Power Agency

DENNIS BOLLINGER, Browning-Ferris Gas Services, Inc.

ROSS BURGESS

BILL CARLSON, Wheelabrator Environmental Systems Inc., rep.
Renewable Industry Coalition

SHERYL CARTER, Natural Resources Defense Council

JOSEPH CAVES, Joseph Caves and Associates

ROLAND S. COOMBS, Jackson Valley Energy Partners, L.P.

GEORGE E. DONLOU, Pacific Energy

KAREN EDSON, California Energy Company

BOB ELLERY, Sierra Pacific Industries

DIANE FELLMAN, Goodin MacBride Squeri Schlotz & Ritchie, LLP

SCOTT D. FRIER, KJC Operating Company

MICHAEL F. GOODRICH, Honeywell

JOSEPH C. GRECO, VAE Energy Operations Corp.

JAN HAMRIN, Center for Resource Solutions

THOMAS C. HINRICHS, Geothermal Energy Association

LON HOUSE, Water and Energy Consulting

DRAKE S. JOHNSON, Consultant, rep. Southern California Edison

ROBERT L. JUDD, California Biomass Energy Alliance

ALSO PRESENT
Continued

STEVEN KELLY, Independent Energy Producers
BILL LAX, San Joaquin Valley Energy Partners
MARK E. LEARY, Browning-Ferris Industries
JODY S. LONDON, Working Assets
LEO R. MARIANO, Pelco Consulting Group
TANDY McMANNES, KJC Consulting Company
ERIC L. MILLER, Foresight Energy Corporation
GREGORY P. MORRIS, Future Resources Associates
MICHAEL J. MURRAY, Pacific Enterprises Company
LES NELSON, California Solar Energy Industries Association
MICHAEL A. O'LEARY, New Charleston Power I, LP
ALAN J. PURVES, Laidlaw Gas Recovery Systems
WAYNE RAFFESBERGER, Attorney at Law
NANCY RADER, American Wind Energy Association
DAVID W. RIENHART, Sacramento Municipal Utility District
ROY SHARP, Livestock Systems Management
BILL SHORT
JEFFREY SPRECHER, Western Power Group Incorporated
MARK TIMMERMAN, California Manufacturers Association
KATHY TRELEVEN, Pacific Gas & Electric Company
CHRISTOPHER R. TROTT, Pacific Wood Fuels Company
HOWARD J. WENGER, Pacific Energy Group

ALSO PRESENT
Continued

JOHN WHITE, Center for Energy Efficiency

KEVIN M. WILLIAMS, City of Modesto and County of Stanislaus
Waste-to-Energy Project

KEN WISEMAN, Consumers Utility Advisors, Inc.

C. E. WOODS, Calpine

FARAMARZ MARK YAZDANI, FMY Associates Inc.

RAJU YENAMANDRA, Siemens

LYDIA ZAININGER, Geothermal Institutional Investors Group

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P R O C E E D I N G S

ACTING CHAIR RAKOW: Good morning, ladies and gentlemen, and welcome to the Energy Commission Adoption Hearing on the Policy Report on AB 1890, the Renewables Funding Plan.

In this en banc hearing today is, as you know, the culmination of seven months of very intensive effort by Commissioner Moore and Commissioner Sharpless, the interested groups who I think are all here in the audience today, and the staff. I think everyone is to be highly commended for bringing together various diverse points of view and for the lack of polarization that has been noteworthy all through these proceedings.

Now we have a document that is forged for the full Commission to hear your comments on and to take under consideration for a vote later on today.

So with that, I'd like to turn the meeting over to Commissioner Moore who has headed up this Committee.

PRESIDING COMMISSIONER MOORE: Thank you, Commissioner Rakow.

I have a couple of opening remarks. I'd like to turn to my colleague Jan Sharpless for her remarks and ask for those of the other Commissioners before we then go into a summary of the

proceedings.

In my opening remarks, what I'd like to do is to simply, very briefly highlight the fact that as the Chairman has said, this is seven months of efforts that involve a lot of people. A lot of those people are sitting in the room here today. It's not a complete list, and I can't acknowledge all of you and the public because in part you'll do that if you come to testify before us.

But I can acknowledge our staff and the support that we received. And I'd like to do that for the benefit of my fellow Commissioners who haven't worked as closely with these folks as we have, just to acknowledge, A, what a joy it has been to work with them even in the really hard times where we've had good arguments, good stout arguments in the hearing rooms. They've stuck with us and they've rallied behind us, everyone of them, to their credit and ultimately to our credit. We are privileged very much.

And I'd like to acknowledge them. We have listed as principal authors on our report, and I'd like to ask them to stand and just remain standing until we go through the list which is not that long. Cheri Davis and Bob Huffaker and Suzanne Korosec, Pramod Kulkarni who I can never pronounce Pramod's last name correctly, Sandy Miller, and Tim Tutt is here, and our project manager Marwan Masri.

And I just want to say thank you very much on behalf of the Commission and we owe you a lot. You're the hardest working

people I've ever worked with. Thank you very much.

[Applause]

PRESIDING COMMISSIONER MOORE: As I said at an earlier hearing, there was a remark made by Senator Peace suggesting that this is a group of people who couldn't come to a conclusion together at the Legislature in August, and were visually like people eating their young. Frankly, we didn't find it to be that way.

We found it to be a much more cooperative, while still being contentious. I mean, people were arguing strenuously for their own viewpoint. And so I think it's been a good and an honest debate.

We've come to an honest disagreement on some issues, and ultimately the Committee will present you with their viewpoint on this. But frankly, I want to thank the participants for an honest and very open and fair exchange of ideas which I think will benefit the Commissioners as we go through and try and have our deliberation on this.

Last thing I'd like to do is thank my colleagues for their support through this. We couldn't have done it without you backing us up and giving us the resources that we needed to finish this. And to our advisors who played a very special part in making this all happen. And so Manuel Alvarez and Rosella Shapiro earn a great deal of thanks from us for their hard work in this

process.

So with that, let me just turn for a very brief opening remarks to my colleague and then to the Commissioners, and then I'll go back and summarize what we have given you.

COMMISSIONER SHARPLESS: Thank you.

Well, there is no need to repeat what Commissioner Moore had said. I echo my thanks definitely to the staff, the advisors and the participants.

I would only say that this Commission in its lifetime has looked at the need for diversity in our electricity system as a very important policy goal. And as the world has been changing, we have been looking how we can continue to undergird that policy. And the Legislature handed us this new challenge and this new opportunity, and while it was a monumental task for all of us in a very short period of time, I thank them for that because I believe as a result of going through this process am optimistic about the future.

I'm optimistic for those of you who have already forged the path of renewables about your future, your role, and the competitive market. And I'm optimistic about the new and emerging and advancing technologies to carry on the important contribution that has been made by those of you who have gone before. Almost sounds like *Star Trek*. See that it is done right.

So I recognize the complexity that we have all worked

with, the many needs that you brought to the table, the many desires of where we all want to go for the future, the importance that this industry has been to the citizens of California, the multiplicity of interest that the Committee has tried diligently to balance.

And we are human; we are not perfect. We've listened; we've tried to listen. We've tried to weigh all of the needs that you have brought to the table. There are many more needs than there is money to cover, and we all had to deal with that situation.

We would like to continue to support the renewables industry into the future. We would like to send that message to the Legislature that there is a promising future here, both for existing, new and emerging. We intend to stimulate the consumer market to make it so.

And I'm pleased that we have gotten to this point and that we have received so much from the industry to help us get here. Now it is up to our colleagues to listen to the remaining arguments that you might have about the pluses and minuses of this report, and we will attempt to meet our legislative deadline by March 31, which I'm sure we will be able to do.

So I want to thank everybody.

COMMISSIONER ROHY: My comments hopefully will be brief, but my main "thank you" is to the Committee here on the

dais who have relieved me of many hours of hearings.

But that's not to say I am not interested. I've talked to many of you individually. You've taken the time to come and see me, and I do appreciate all the input I've gotten.

I've read the Committee's reports as they have come through three or four times. I'm very comfortable that a good public process has occurred.

With regard to the future of renewables, I too share a very optimistic view that this transition to a marketplace will make your industry a lot more robust and hopefully grow a lot faster than any of you can imagine today when we get into the new paradigm.

So I'm looking forward today, today's comments by all of you. And hopefully we will have very cogent deliberation and come to a decision today.

COMMISSIONER LAURIE: Madam Chair, I think I will not offer a debt of gratitude to my colleagues until this process is in fact completed.

[Laughter]

COMMISSIONER LAURIE: We have our work to do today and I'm prepared to just get it on.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you, Madam Chairman.

With that, and I appreciate the support of my colleagues, what I'm going to do today is to briefly outline the process that we went through and then go through an overview of what the report presents you with. All the members of the Commission have had access to the report, albeit perhaps not in a very leisurely timeframe. I apologize for that. But we've been pretty constrained in terms of trying to meet our deadline.

To reiterate what Ms. Sharpless said, we are constrained by a March 31st deadline to submit this to the Legislature; that only allows this hearing for the Commission to take action.

Our intention is that we will introduce the topic to you, that we will present an overview of the report and its recommendations as well as our responses to the kinds of comments that have been coming in to you.

We would then open this hearing today and allow people to comment and bring new information that has not previously been submitted to the Commission either in writing or in some other form, or to elaborate in some fashion to illustrate the points that they've made. The Commissioners have all had access to the public on this, and certainly have been in receipt of a good deal of documentation on this.

We've had seven months of workshops and hearings on this as you can see in the document itself, as we're now facing, after adoption today, a probable first presentation of this at the

Senate. I'm told by Senator Peace that there will be a hearing that will discussion this in early April.

So that means that following this we have to get the report bound and out, over to the Legislature as rapidly as possible, which we are prepared to do. We've already set up arrangements to bind the final copy and get it over across the street.

We had a set of constraints, and I want to just elaborate on those before we go into the guts of the report.

First of all, I should say this report is conceptual in nature. Commissioner Rohy has communicated to us his desire, which we have acceded readily to, that the report acknowledge in the front end that it is not the implementation document that some people seem to think it is. And frankly, we think that's probably another phase that will come out of the Legislature.

Right now, this is a report with recommendations to the Legislature. It is not intended to be as discrete and final as a document that would define all the rules and how everyone would play. So frankly, we think that there will be an implementation document that will follow this. This report is not intended to do that.

Second, the law is in a sense, to us a topical term, "schizophrenic" in the way that it requires us to make our report. It asks us to reward those most cost-effective technologies at the

same time specifically asking us to protect those most vulnerable industries which it calls out, among which are biomass and solar thermal.

It wants us to establish a viable market and to make specific provisions to allow consumers to participate, all the while establishing floors that we can't slip below in terms of our allocations. It's easy to see that some of these could be contradictory. I think we've crafted a solution that addresses all these simultaneously. A difficult equation even in the best of times, but I believe that we've come pretty close to doing it.

This report is intended to be strongly market based. It incorporates a system of bids, bid and auctions, or envisions a series of bids and auctions. And I want to warn those whose first thought is that memories of the BRPU, that this is not that. This is intended to be a very simplistic set of bids. And frankly every market works on bid ask relationships, and we think that this reflects the best of market activity.

So in terms of our addressing either market-based mechanisms or consumer accounts, we've attempted in every case to reflect the intent of the legislation that would allow for markets, free and open markets to emerge in this industry. And therein is the difficulty because we're dealing with a set of industries that grew up not in a market-based economy, but grew up as a result of artificial allocations and artificial adjustments

in their market performance.

And those of you who have participate in our hearings know the difficulty we had wrestling with the concept of industries that were still getting payments under S01/S04 contracts while still being required to or asked to participate in a broader market framework following the cliff period of those contracts.

Difficult concept and frankly very, very hard to deal with. It wasn't really successfully dealt with, we feel, in the legislation. I think that this report does address that pretty evenhandedly.

With your permission, what I'm going to do is to go through a brief overview of the report. I assume everyone who has had a copy has read it thoroughly, but this will allow the debate to be framed today in front of the Commissioners. And I've asked Marwan to help to me with overheads on this and since you'll be able to read them a lot faster than I can speak, I'll simply hit the highlights.

We divided the world into the existing and new and emerging and consumer accounts areas. In existing technologies where we were required to have a floor of 40 percent, we've allocated funds for three technology tiers and we've distributed that money, the intended money, through a cents per kilowatt hour production credit which is tied to market clearing prices.

Now let me diverge slightly here, and then I'll make cringe every time he hears a divergence on this, to say that we had to make a basic assumption about the money. We said there are \$450 million. That has been in dispute. Frankly, and I'll tell my colleagues this -- I'm sorry, 540. I got dyslexic already, 540, and lowered it.

[Laughter]

PRESIDING COMMISSIONER MOORE: Five hundred and forty million dollars, frankly, in a sense, the concept plan that we have before you doesn't care whether it's 540 or 465. It's the proportion and the allocation system that matter.

So right now, in order to make a judgement call on this, we had to assume, similar to any economic model, we had to assume a certain amount of money would be flowing in any given year. If it doesn't, and if it doesn't specifically in some of these categories, we've anticipated rollover effects or rollover mechanisms as well as under subscription mechanisms.

So we have tried to anticipate what happens if the exact amount of money that we have anticipated doesn't come. Frankly, for purposes of our discussion today, it really doesn't matter. What matters is the concept of how it would all flow out.

We have augmented that floor with five percent additional money. The five percent is our anticipation and reflection of some of the repowering needs. We have intentionally

moved repowering concerns or efforts into the existing technologies area.

In new technologies we've suggested 30 percent of the money be allocated to this account. The funds would be allocated through a competitive bid and distributed through a cents-per-kilowatt-hour production credit.

In emerging technologies we've suggested ten percent of the money be allotted through a competitive RFP. And the funds would ultimately be distributed through a project-specific support mechanism.

We allocated 15 percent of the money to the consumer accounts. Fourteen percent of those funds allocated and distributed through a cents-per-kilowatt-hour consumer credit, and one percent of the money to be allocated to consumer information and market building activity that we frankly feel can be combined very successfully with the money that the Public Purpose Programs Committee will be allocating at the PUC. Hopefully this will allow us to work more in conjunction with our sister agency as well as building a stronger market, stronger support market for renewables.

We were asked to come up with a certification procedures, and we have suggested that in state renewable supplies and providers be required to self certify with this agency. We prefer the simplest verification system, backed up by the world

famous tattler system --

[Laughter]

PRESIDING COMMISSIONER MOORE: -- which we think is absolutely guaranteed to make sure that over a certain limited period of time no one escapes the scrutiny.

We have suggested that the certification and and reporting used for the payment of the 1890 funds and for the fo-first direct access provision be included here. Frankly, I want to say that we're aware of the PUC's decision on equal access, if you will, for direct access, equal access for direct access, and don't think in fact that it violates any of the principles of this report.

We were asked to opine on microcogen and cogen for pollution fuel cells. We find that the microcogeneration and cogeneration from VOCs does require help to remain competitive. It may be that the CTC exemption is a method to get around this. There may be others.

Frankly, this is not directly in our jurisdiction, so a recommendation on this narrow area of CTCs was left out of this report. We think that this is properly left to another agency, but we can certainly find that they do require help over the long term to remain competitive.

We find that fuel cells should qualify as fuel switching and the fuel cells using renewable fuels do qualify as a renewable

technology.

With that, let me say that Marwan has got an overview of the money. Kind of a tree, decision tree, if you will. And in your packet you'll see that it is perhaps the clearest exposition of how we've allocated those monies both in terms of the percent and the actual amounts that would come down.

I'm not going to go over those except to say that tree take you, I think, the shortest amount of time exactly to where the Committee's recommendations are.

Now all these recommendations really depend on and much of the controversy which has arisen is directed at the distribution mechanisms.

So in terms of the existing technologies account where we've suggested a per kilowatt hour production incentive, we have come up with a fairly unique system to try and acknowledge that short run avoided cost payments been high; that there have been in many cases generous payments made to various industries over the timeperiod that they've been getting energy payments out of their contracts; and that unless those prices fall below some threshold, really it's inappropriate to put any money out.

So we've suggested that the amount in the existing technologies accounts, and of course there are three tiers, be determined by the lesser of the target prices minus the market clearing prices. The available funds divided by generation, or a

specific production incentive cap.

We provided for a raincheck provision. And again, as I said before, we have three subaccount tiers with different target prices and caps. I know that each one of you has been lobbied pretty heavily on the idea that either the caps are inappropriate, the tier relationships are inappropriate. A good deal of discussion about people moving from tier to tier, and also that the SRAC thresholds that we established were inappropriate.

We used the best analysis that we could. This is clearly a judgement call on our part. We recognize the fact that within the existing accounts there could be under subscription in any given year. We've provided for that by suggesting not only that the under subscription could be rolled from year to year so it wouldn't disappear and potentially could be redistributed in time T-5 in the final period. But more than that, as you've seen in the diagram -- Marwan, can I ask you to pull up the first graph?

We've suggested a ramping system over time. Let me take you back to the ramp graph. One back.

In the bottom graph, you'll see that the existing technologies line slopes down. Over the four year period, the new technologies and emerging technologies -- excuse me, consumer side accounts ramp up.

Frankly, what this amounts to is an accounting mechanism

to move funds from one side of the account to another in the early versus the late years. It's our attempt to recognize the fact that the existing technologies do need to be weaned off of their subsidies. That's part of the intend of the law.

That line ramps down for a very specific reason. It suggests our opinion that the greatest value to this money lies in the early years and should ramp down and close out in the later years.

Similarly, in the case of new technologies and consumer markets, we suggest that there is no market today for those. And in fact, some of the new plants are not on the ground yet. So we imagine that they will need greater support over time, over the four years.

So when you look at the table that's just above that, you can see in the overall column the final amount, which I discussed in my opening remarks with you, 45 percent, 30 percent, 10 percent and 15 percent. But in any given year you can see that the amount allocated out of the available pot in that year is higher in the early years for existing, tapers off; lower in the early years for new and consumer spending, and tapers up.

So that ramping system is our way of moving funds around even though the totals don't change in the end it moves funds around to try and make the most efficient use of the money.

If I could go back to the distribution mechanisms for

just a moment, I'll close by saying that the other distribution methods that we've had, and I alluded to this earlier, in the new technologies account we have a per-kilowatt-hour production incentive allocated by a simple auction, funds distributed over a five-year period. We have payments being made on a monthly basis.

This is our first view of this. Again, during the implementation phase the fine tuning might change it. Basically, what we're asking people to do is to bid on the amount of the subsidy. Of course in this case the bid for the lowest subsidy takes it away until the money is gone year to year.

In terms of the emerging technologies account what we've asked you to approve is a single auction at the front end that would allocate money determined on a project-by-project basis.

We have included the language the Legislature wanted us to address here in terms of financing mechanisms. We are open to all kinds of suggestions. Frankly, the sky is the limit on this as far as innovation and making the money go as far as is possible, which could include interest rate or capital cost buydowns, customer rebates and many, many other forms of assistance.

Finally, we set up a consumer incentive account. The amount determined by the lesser of the available funds divided by the eligible renewable generation, or a 1.5-cent-per-kilowatt-hour incentive cap.

Now we don't know whether these payments would be made monthly or on a biennial basis. Frankly, the allocation would probably be on biennial or a yearly basis in order to make more certainty known to those marketers who are out there interested in getting these funds and getting them out to consumers.

This is something again that would be discussed in the implementation phase, but our objective here is to give as much certainty as is possible, not to lock it up in the hands of any one marketer. We are very resistant to that. We want this money to get out to consumers in such a way that they buy renewable accounts.

We are resistant to the idea that says industrial consumers don't have a place in this. Frankly, industrial customers are part of what's going to drive this market. Our objective is to increase the viability of the renewable energy market. And if that means that we have to reach out and include commercial/industrial ventures as well as residential ventures, we're aiming to do it. We want the money to go as far as possible and give us as much protection as is possible.

In your packet you'll find a chart that -- and I just want to point it out to you -- that describes the SO4 and SRAC energy prices over time. I just want to suggest that we were acknowledging real market behavior in trying to understand what levels of support any given industry might need.

And frankly, we understand that people who are on an SO4 contract today are getting energy payments. Most of the people who are in that category fall off the cliff before this, by 1999, I believe, before the period is over of this study. But you can see there have been substantial generous payments, let's say, we're hoping have been reinvested in new capital and plant additions. If they haven't, many industries which have failed to make those reinvestments are probably going to suffer when the new market finally emerges.

We are aware of that and we're tried to build that understanding into our distribution allocation mechanism.

So the idea of the standard offer contracts should be in the back of your mind as you look at this and listen to some of the comments that are made.

And with that, we've done a market price forecast.

Marwan, if you've got that, maybe we can just put it up.

We've tried to forecast what might happen in terms of the target price relationships that we've set up. And you can see market price forecast -- oops. Market price forecasts, second line from the bottom, and you can see that under this forecast the tier one target price could get down to very close to that by the end of the period. You can see what happens to tier two and tier three during this period.

We recognize that there is the possibility that given

these relationships, the tiers may have rollover funds. And as I said earlier, those funds, we are intended to roll within the category and to be available at the end of the period.

With that, what I'm going to do is stop the overview, go back to the report and suggest to you that we've had a great deal of testimony on this that brought us to this point.

Again, we've had a discussion with various industry players that have wrapped around the idea that we've either set up the wrong tiers, that we should have more tiers. We've heard arguments that suggest we should have fewer tiers.

We've heard a good deal of argument that suggest you should move from tier to tier, moving people particularly out of tier three into tier one.

It's an interesting argument to hear people come in and tell us why they are actually not as efficient or not as well managed as we said they were. That in fact they ought to be moved up to a more inefficient category where they deserve more support or could get more support.

We've heard arguments that we should move an additional five percent into the existing category. Move it from 45 to 50 percent. And we've heard arguments that we should change the slope of the ramps and change the levels of the caps.

I have two comments on that, and then I'll stop with the overview.

The first is that this is the best analogy we've been able to come up with; this is very tightly strung barrel. And all the stays are kept together by hoops of a specific diameter. And any movement within this report will necessitate moving not just out of one category, but changes in every other category. This is entirely interdependent.

To quote the John Muir famous quote, he'd pull up on a root and find out that it's attached to everything else in the universe. In this case, movement within any tier or changes in caps reflects a pressure or movement on every other piece of the report. And I'll give you an example.

You don't just find five percent of the money and move it over to the existing account. You have to find it somewhere else, A. And B, you have to have a reason to do it.

Frankly, I don't know that there is a reason to go much above the level of support that we've created, other than some iconized number of 50 percent which suggests we're doing a more evenhanded job. Frankly, I think we did a remarkably evenhanded job in trying to craft interests, craft a union of interests here that was intelligible and satisfactory ultimately to the Legislature, as well as to the players.

Second, we're not here to protect inefficient industries. We're not here to continue an old system that was in place for the last 15 years. This report has no relationship to

what was done in the past. This report is new. It concerns new money, not old money; and frankly, doesn't concern old relationships.

So we are interested in cost numbers that tell us how effective these players are going to be in the future, and we've applied our judgement to that to try and come to a conclusion about who would be able to survive and provide the best service to the market, if you will, without some artificial diversity or artificial allocation among classes.

Finally, in order get five percent, for instance as the number that has been tossed around quite a bit, we have to find it out of either the emerging technologies section or the consumer section.

If we were to take it, for instance, out of the new technology section, we automatically bust the floor that we have. And frankly, I'm simply not willing to do that. I trust my Commissioner colleagues are not as well. We can't submit something to the Legislature that doesn't meet the test of the law.

If we take the five percent out of the emerging technologies, then what we've done is to not acknowledge the kind of role that they will be playing in the future. We are unwilling to do that. We want to keep funding levels at a level appropriate to keep them viable. And I don't believe, given the compromises

and final agreements that we've come to, that we can stretch it far enough without severely wounding the baby, if you will.

So we have thought of the various solutions that have been presented to you, and frankly considered them very, very seriously over the last few days and weeks, and stand by our recommendation to you.

We've had access to all the papers that you've had in the last few days. The arguments for changing the ramps, changing the tiers, and again, we have discussed those seriously.

And I want to conclude by suggesting that our recommendation to you stands unchanged and represents our best thinking on this process.

And with that, Madam Chairman, I am prepared to open the hearing and I will do so. Thank you.

I'm going to ask each speaker to come up. And if you have previously submitted information to us in writing, especially in the last couple of weeks, you know that each Commissioner has had it. Not only have they read it, but their advisors have read it. They've commented on it. And they have been briefed individually by us, discussed each one of these points with us prior to coming in to these hearings.

So I don't know that you need to reiterate, especially verbatim, that would be probably not appropriate, all the points that are made in your individual letters. If you want to consider

the high points and/or other things that you think we ought to take into account, we are, of course, very open to hear those.

We welcome your comments. Try to limit the comments to under three minutes apiece. We have a tremendous number of people who want to speak today.

And again, for those of you who are used to the hearings that I've chaired before, I try not to be overly directive about this, but go much past the three minute mark and --

[A cellular phone rang in background.]

PRESIDING COMMISSIONER MOORE: -- we've got phones that will start to ring and buzzers that will go off --

[Laughter]

PRESIDING COMMISSIONER MOORE: -- and bad things will begin to happen. No question about it.

COMMISSIONER ROHY: How did you arrange that, Commissioner?

PRESIDING COMMISSIONER MOORE: I have button up here, and the button is also connected to a trap door right next to --

[Laughter]

PRESIDING COMMISSIONER MOORE: Those of you at the table are safe.

You know, I have one oversight that I want to correct, and I apologize for doing that. And that is I didn't introduce

our counsel, Jonathan Blee, who is at the front table and who keeps us --

[A cellular phone rang in background.]

PRESIDING COMMISSIONER MOORE: That buzzer. Keeps us out of trouble in this forum as we go through it.

With that, I'm going to ask for some of the industry representatives who will be first. Those of you who have shown me a stamped airline ticket showing that you're getting out of town before X hour will be rewarded by getting on before lunch, we assume, if you keep your remarks brief.

Bill Carlson.

MR. CARLSON: Commissioner Moore?

PRESIDING COMMISSIONER MOORE: Yes.

MR. CARLSON: I'm making a joint presentation with Steve Kelly of IEP which I did last time.

PRESIDING COMMISSIONER MOORE: Come on up.

MR. CARLSON: He's going to go first.

PRESIDING COMMISSIONER MOORE: Good. Bill, why don't you come up to the table.

I should announce too that Commissioner Rakow has other business that she will be needed to attend to, so she may be in and out of this hearing. She'll be listening on the squawk box while she does her other duties. And so as our chairman she's pretty busy with some other stuff today, but we intend to have her

fully informed by the end of the day for our decision.

Mr. Kelly.

MR. KELLY: Thank you, Commissioners.

In order to preserve my three minutes, I won't reiterate my appreciation for the Committee's staff's work on this. I'll just go right to some of my concerns.

PRESIDING COMMISSIONER MOORE: Thank you.

MR. KELLY: In response to your concern about meeting the intent of AB 1890 in the 40 percent, IEP has been able to recently do some modeling exercises on the process of methodology for allocations that you are prescribing in your report. Based on some assumptions, gas price assumptions coming from the Energy Commission and the two modeling exercises, and we also used one that looked at what was likely to happen for the SRAC price.

Under those scenarios, in all cases we find extremely likely that zero dollars will be allocated to technologies in tier three, which means we think it's very difficult for the Commission under their proposal to attain even a 40 percent allocation to existing technologies.

As a result of that, I will speak briefly to couple solutions to that problem which I think it out there and I think your table, for example, shows that it's very unlikely that monies would be allocated to tier three.

That results in an automatic rollover in the fifth year

of approximately \$36 million to first PV, and secondly to new and and PV in the fifth year through your rollover mechanism. As a result of that, we think that the PV industry as the surrogate most likely candidate to receive emerging funds is really looking at an allocation, a total allocation of 13 percent in this process.

What we would recommend is that, one, as we had indicated previously, that we would like the Commission to consider to go outside the bubble that is of this AB 1890 renewables report and look to funding from perhaps the RD&D mechanism to supplement funding for PVs to the extent that they need that. And we recognize that that is certainly within your purview to determine what that final allocation ought to be.

Secondly, we recommend that you seriously revisit the price cap ceilings, particularly for tier three, to ensure that those technologies that are in those caps have some likelihood or some prospect of actually benefiting from the AB 1890 funds.

As I'd indicated earlier, we think there is a rollover of about 15 to 25 percent of the existing funds into the new and emerging category in the fifth year. And that means that if that occurs and there is a high probability that it will occur, that the actual funding for existing is probably in the 33 to 35 percent range.

We think you could fix that risk by increasing the

funding from 45 to 50 percent for existing technologies.

And I will conclude with that brief comment, if anybody has any questions.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Kelly.

Mr. Carlson.

COMMISSIONER SHARPLESS: I --

PRESIDING COMMISSIONER MOORE: Oh, sorry.

COMMISSIONER SHARPLESS: I would like to ask a question of Mr. Kelly.

Mr. Kelly, you've integrated two concepts here. One is the five percent.

MR. KELLY: Right.

COMMISSIONER SHARPLESS: And one is the target prices and price ceilings. They actually are separable; are they not?

Your first concern is that the target prices in tier three are at a level that most of the facilities in tier three will probably never become eligible for the money. That's problem number one.

MR. KELLY: One of my concerns.

COMMISSIONER SHARPLESS: Problem number one.

MR. KELLY: That's one of my concerns, right.

COMMISSIONER SHARPLESS: Even without the five

percent?

MR. KELLY: That's true.

COMMISSIONER SHARPLESS: Okay. With the five percent, if we were to give five percent and not fix that, you still wouldn't have your solution.

MR. KELLY: I think you need two fixes. I'm proposing two solutions here.

COMMISSIONER SHARPLESS: But I'm not sure that the five percent would help out tier three. Who's the five percent supposed to help out?

MR. KELLY: I'm not in a position right now to articulate where the allocation ought to be. I believe the industry coalition has some agreement on that, that meets the needs of all the technologies within that coalition.

COMMISSIONER SHARPLESS: Okay. Now the other point is the point that Commissioner Moore made earlier on in his comments. And that is taking regardless of what you think ought to be done with PVs, taking five percent from emerging leaves us with 35 percent in the new and emerging column. Is that not correct?

MR. KELLY: I look at the allocation of funds for the customer incentives to be primarily geared toward assisting the new stuff. In order for any benefit to existing technologies to come from that pool of money there has to be some significant

contract restructuring occurring in the early years of this program which is an unknown.

COMMISSIONER SHARPLESS: So would you be willing to take the consumer column and preclude existing from getting any out of the consumer column?

MR. KELLY: I think you can meet the test of 40/40 if you dedicated 50 percent of the customer incentive column specifically to new. I don't know that you need to dedicate it all, but you could certainly probably meet the 40-percent test by dedicating 50 percent of that.

COMMISSIONER SHARPLESS: Fifty percent of --

MR. KELLY: Fifty percent of 14 gets you up to the 40 percent.

COMMISSIONER SHARPLESS: So what you're saying is that the consumer credit column would still have some money in it for existing if in fact existing could ever qualify --

MR. KELLY: To the extent they ever could qualify.

COMMISSIONER SHARPLESS: -- under the contract.

MR. KELLY: Yes. But I'm not, I think that by dedicating at last 50 percent of those funds to new that solves the issue about the 40 percent floor.

COMMISSIONER SHARPLESS: Doesn't that make it a little bit difficult for people who are trying to take advantage of the consumer credit column to have enough flexibility?

I meant, you're now loading on yet another condition on folks who are out there trying to sign up consumers for the customer credit. You know they got to figure out, okay, now let's see. I've got a 50 percent basket and I got to be sure that I don't have more than X percent of new and more than X percent of existing or all of existing or all of new. I can't violate these provisions.

I meant it just seems to me like instead of following the principles that we all started out with in the very beginning which is to make an elegant system that helps, you know a broad range in the marketplace, that we're now loading it down with more complicating divisions.

MR. KELLY: I don't think that any aggregator or who would be taking advantage of the customer incentive program would have any difficulty in figuring out that mix. And it's highly unlikely --

COMMISSIONER SHARPLESS: Well they may not have difficulty figuring it out, but I'm talking about whether or not you're just adding a complexity onto it that may make it more difficult to market.

MR. KELLY: I don't believe so. I don't think it will be an added complexity.

COMMISSIONER SHARPLESS: Okay. I just wanted --

MR. KELLY: At least an inordinant one. I mean --

COMMISSIONER SHARPLESS: -- point of clarification.

Commissioner Moore, I think Marwan --

PRESIDING COMMISSIONER MOORE: I'm sorry. Marwan.

MR. MASRI: I have one point of clarification, please.

PRESIDING COMMISSIONER MOORE: Certainly.

MR. MASRI: I think Mr. Kelly did not accurately characterize the Committee's recommendations. I'd like to correct that for the record.

As far as the rollover money, I think his statement is that the first three percent or \$16.2 million go to PV. That is correct.

The second part of his statement that the remaining --

COMMISSIONER SHARPLESS: Emerging. It goes to emerging.

MR. MASRI: Emerging, I'm sorry.

[Laughter]

MR. MASRI: The second part of his argument that the remaining money goes to new and emerging is not correct.

What the Committee is saying is that the remaining money would be allocated at the end of the period based on market conditions. So it could go to existing, it could go wherever is needed at the time. And that is what the Committee is recommending.

MR. KELLY: Well we've made a commitment for, I mean,

that's not clear to me in reading the report. So that's a new interpretation of that language.

MR. MASRI: It's very -- I'm sorry. I can read that into the record.

MR. KELLY: That's fine. I don't have any disagreement if that's in there, Marwan. I accept that.

COMMISSIONER ROHY: Mr. Kelly, I have another question for you though on your statement with regard to R&D. And first of all, we've not settled the R&D protocols. Those are hearings that have not yet occurred.

MR. KELLY: Right.

COMMISSIONER ROHY: It is my anticipation though that that money would not be spend to a large degree on production credits. But in fact, the way the legislation is written is for science and technology not adequately covered in the private markets. My doubts are that there significant amounts of money might become available from the R&D fund to support product credits.

MR. KELLY: My understanding of the way that the allocation would be for emerging now is not a production credit, it's an RFP bid basis, and that that formula would, seems to me would probably fit in with how you would proceed with allocating the RD&D money.

COMMISSIONER ROHY: Well, but we have not yet done

that process.

MR. KELLY: Okay.

COMMISSIONER ROHY: And that has to be subject to a full public process.

MR. KELLY: I recognize your processes early on this track, and that's why I'm posing this as a potential issue for your consideration. Because from my perspective it solves a great many of the problems that may linger regarding this proposal.

ACTING CHAIR RAKOW: I think that the point also is that we would not like our fellow Commissioners to feel that there is a pot that they could call on at will to solve a particular problem here. And when those, as Commissioner Rohy has said, the protocol or the plan is not yet resolved for the RD&D.

MR. KELLY: I appreciated that.

COMMISSIONER ROHY: I'd like to ask Commissioner Moore and the Committee one other question though, since the consumer issue came up for consumer side accounts. And I think this is a very simple question.

Could the same kilowatt hour or renewable energy receive a production credit and a consumer side credit?

PRESIDING COMMISSIONER MOORE: Yes.

MR. MASRI: Yes.

COMMISSIONER ROHY: I read the report that way. I wanted to make sure I understood.

PRESIDING COMMISSIONER MOORE: Answer: Yes.

COMMISSIONER ROHY: Okay.

PRESIDING COMMISSIONER MOORE: Mr. Carlson.

Thank you, Mr. Kelly. You might just want to stay up here in case there are questions.

MR. CARLSON: Thank you, Commissioners.

Bill Carlson. I'm here today representing the Renewable Industry Coalition.

And for those of you who are not familiar with who that is, that is the owners of 4,000 megawatts of existing renewables representing about 95 percent of all renewable capacity in California, and investment of seven to eight billion dollars in infrastructure.

It was formed out of a request from Commissioner Moore that the renewable industry that was present at the first workshop in November go out, find a consensus position, work until you had that consensus position, and bring it back to the assigned Commissioners, which we did.

We have stayed with this coalition through numerous iterations of this process, and we remain committed to each other to achieve the consensus that we brought forward back in November to you achieve it hopefully at this dais today.

These iterations have continued to improve the document. They have continued, quite honestly, to move closer to that

consensus position as we have gone through these iterations.

At the last hearing as which just two of five of you were there, we listed basically five conditions, five changes that we would like to see in the document that would allow this coalition to go forward arm-in-arm with the Commission to the Legislature and basically get this policy report adopted.

I'd like to briefly review those five if I could, and just tell you how they were dealt with in the report.

Number one was change the tier one allocation from 25 to 30 percent, thus changing the overall support for existing to 50 percent. The five percent change to come from the emerging category. In the last draft of the policy report, that recommendation was ignored.

Number two was the application of screening criteria to landfill gas generators in tier two. This was dealt with in the latest draft by moving the landfill gas generators to tier three, along with a two percent allocation as an addition to tier three.

Number three was establishing bid protocols for new projects and adding different payment options in the form of upfront financing options, front-loaded production incentives. The bid protocols were adopted in this draft, but the change in payment provisions were ignored.

Number four was the addition of industrial customers to the use of customer incentive funds, and the fixing of the

customer incentive at a known amount in advance to aid marketing.

Industrials were added, but they were capped at \$1,000 per customer, per year. And fixing the incentive was ignored.

Number five was changing the date for existing renewables to be in service at prior to September the 23rd, 1996, the date of AB 1890. And that recommendation was adopted.

The five recommendations we made at the last hearing were a carefully balanced set designed to achieve the minimum acceptable circumstance for each major renewables technology. Each technology had other items of concern on their plate that they expressed to you individually, but none of those rose to the level of the five that we were seeking.

The achievement of the five changes sought previously remain the goal of the Renewable Industry Coalition, and a necessary precondition to obtaining our wholehearted support for this policy report at the Legislature.

Now our list is shorter. It's now down to three items. And Commissioner Sharpless, you may not be perfect, but you're getting close.

[Laughter]

MR. CARLSON: The mechanism that will allow you to be -- you are so close --

COMMISSIONER SHARPLESS: If I can just say that I think we're both human.

[Laughter]

MR. CARLSON: Right.

Item one: Increase support to existing resources to 50 percent by increasing tier one from 35 to 30 and decreasing emerging category from 10 to 5, and adding that at least 50 percent of all customer incentive funds shall go to the new and emerging category, thus solving the problem of only having 35 percent.

Tier one contains biomass and solar resources only. The rest of the proposal now comes relatively close to a consensus proposal with the exception of the treatment of biomass and solar which have fallen from the consensus proposal from 40 percent to existing to 25. Ironically, these are the two technologies among the existing technologies that were mentioned specifically in the legislation.

Item No. 2: Upfront financing options, front-loaded production incentives and ten year incentive payments are acceptable mechanisms for funding new projects, so long as these can be expressed as an equivalent five-year production incentive for big purposes.

In other words, we still want you to be able to rank these, so they have to have an equivalency to them.

Item No. 3: Fix the customer incentive payments at a set amount and administer on a first-come first-serve basis. Drop

the \$1,000 per customer limit on industrial incentives and replace with a limit on total industrial incentives at the percent that industrials represent of California's electric sales.

The above items are straightforward and doable by this Commission today, and we urge you to adopt them at this hearing. The change in the level of support for existing resources will make it easier for the policy report to stay in compliance with the AB 1890 mandate that Mr. Kelly was talking about.

As it now stands, with an initial 45 percent of funds to existing and with a 2.5 percent targeted tier three, any four-year average SRAC of 2.45 cents per kilowatt hour or greater will fail the 40-percent test for existing renewables.

It is hard for us to imagine that the Legislature will be satisfied with a plan that fails the 40/40 test at an SRAC of less than two-and-a-half cents. Using your figures, you would have failed a 40/40 test in every year except one since 1984.

On the other hand, our 50 percent existing proposal does not fail the 40/40 test until the SRAC rises to 3.1 cents for a four-year average. This 3.1 cents happens to match the calculated SRAC for the four-year transition period using CEC gas price projections and the current SRAC formula. This was prior to seeing the table that you presented this morning.

And this table taken alone fails the test for 40 percent to existing. Regardless of how long you roll the funds over,

because there's never any funds allocated to tier three, it continues to fail the test even if the program lasts out into 2003. It never goes above 38 percent.

To have the test fail at 3.1 cents is clearly a more comfortable position for the Commission to be in when advocating its plan to the Legislature beginning on March 31. While we all may believe that there is an SRAC average above which compliance does not matter, and I'm certainly one of those, it is certainly not a 2.45 cents per kilowatt hour.

The Renewable Industry Coalition plan, as mentioned, takes five percent from emerging leaving it 35, but then supplements that with at least 50 percent of the customer incentives, bringing that category back to 42 percent.

We already talked about the three percent rollover provision, and I'll not go over that.

On the customer incentive side, our proposed overall limit on industrial incentives would replace the \$1,000 annual limit for a single customers, a limit that yields an incentive of one one-hundredth of a cent per kilowatt hour for a one megawatt industrial load. This level of incentive does not do much to overcome and industrial CTC of roughly two cents per kilowatt hour.

So in conclusion, we sincerely hope that you can see your way clear to make the three changes that we have outlined

today. We would like to finish this process on a high note and go forward jointly with the Commission to the Legislature.

We thank you for the opportunity to participate in this open and straightforward process, and we hope that you will seriously consider our proposals today.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Carlson.

And I might add that although it sounds adversarial, we have frankly benefited greatly by the work that you've done, and you've seen some movement forward. We thank you for the efforts you've put forward. And I'm sorry we haven't closed with you completely today, but we're certainly grateful for the energy that you put into this to get us this far. So we'll do what we can.

MR. CARLSON: Thank you. We certainly return that thanks.

PRESIDING COMMISSIONER MOORE: Thank you.

All right. Nancy Rader.

MR. RADER: Good morning. I'm Nancy Rader with the American Wind Energy Association. I will keep my comments very brief.

First, let me just say that we do support the comments just made by Bill Carlson on behalf of the Renewables Industry Coalition.

Second, I'd like to express our appreciation to the

Committee for allocating and adequate level of funding to California's wind resources, which was accomplished by removing landfill gas from tier two.

My third point is just to say that we continue to believe that the three small changes which I think are uncontroversial that we have submitted will produce a healthier renewables industry at the end of the transition.

I won't belabor these three points. I'll just highlight one of them. We request that the tier two funds be allocated evenly over the four transition years instead of being ramped down over time. And that's to encourage capital improvements to continue to be made throughout the transition period.

If the incentive payment declines over time there will be less incentive to make capital improvements in the later years of the transition. Our goal is to continue to make repairs and to keep production up during the transition period while the stranded asset charge is in place so that we are in good shape when the CTC ends in the year 2002.

Thank you for considering these last few requests, and thanks to the Committee and to the staff for the hard work that you've put into this process.

PRESIDING COMMISSIONER MOORE: Thank you very much.
Bob Judd.

MR. JUDD: Madam Chairman and members, my name is Bob

Judd, I'm speaking on behalf of the California Solid Fuel biomass power industry.

For those of you who have not been part of the Committee, this is a collection of 40 wood-fired power plants in the State of California, in the valleys and the foothills of California. We also are part of the Renewables Coalition proposal.

We ask, as Mr. Carlson did, for your response to the three remaining issues that we do have. We are hopeful that the vote of the Committee will allow us to go forward with you to support the Commission recommendations to the Legislature.

I will pare down my remarks because many have been noted before. Regarding the larger debate that's going on here, we have all seen, and each of you have particularly seen that there are many people pressing for dollars, for these limited dollars. The question arises how to decide.

It seems to me that you have to go back to where you started and you have to question the need for these dollars. A lot of people want dollars in this process, some of them need dollars.

I can tell you that our industry needs dollars. We have lost ten of our biomass power plants in the state that are mothballed and sitting on the sideline because of the economic uncertainty created by this deregulation process. That's 1200

jobs in rural California that have gone by, not counting the infrastructure erosion and loss of jobs in our fuel supply infrastructure. Need is important.

You also have to ask yourself: What do you lose if you don't provide an adequate level of funding for these technology requests?

In our case, you face straight on the issue of stranded benefits because the solid fuel biomass industry is not just about electricity, but it's about air quality and waste management and forest health. To the extent the plants close up, you lose measurable quantifiable benefits in each of those areas.

Then you have to ask: How about weighing the value of each of these proposals.

In our case, we've demonstrated the direct value to this. Not only we have demonstrated, but the Air Board has, two federally sponsored have. You know what you lose in the case of these biomass power plants, and some of the other existing technologies as well. You don't know know what you lose in some of the emerging technologies because you have no idea what you're going to get other than wishful thinking and hope for the future.

We are working very hard to shift the costs or our industry off of the electric ratepayers. That is the non-electric costs so that the electric ratepayers pay for their electricity we provide and other parties who benefit pay for the rest. We've

introduced two bills in to the Legislature already on this, and we are aggressively pursuing that in response to the legislation.

Other parties you've heard from. The agriculture industry, the Rice Industry Association, the Department of Forestry, the Forestry Association, the list goes on and on, simply will not less the biomass industry disappear. That is why we are confident that we can meet the test of 2001 coming to market on this.

Couple very quick points. We are very troubled by the language in the report that allows dollars to go to vendors of PV systems, but it does not require the technology to be installed in California before they can obtain revenues. We think that in your support of the PV industry, which we do not question, it appears in the text that the equipment could be build here and sold in Indonesia. And we don't see any energy benefit to California whatsoever, in that we see an employment benefit, but no dollar benefit.

If I'm wrong on that, correct me. But as I read the report, 75 percent of this material could be exported, and that does not seem to address the issue of renewable energy for California.

COMMISSIONER ROHY: Excuse me. Could you give us the specific citation on that?

MR. JUDD: Could I ask one of my colleagues to do that

while I conclude my remarks?

COMMISSIONER ROHY: Certainly.

MR. JUDD: In the exclusions from the existing support of renewables, existing renewables, this is on Table 2-1 on page 10. The table excludes from support on site sales and sales to munis. I think that there is a need for a clarification there. Perhaps on site sales should be excluded, but over-the-fence sales should not be excluded.

On site sales, that is over-the-fence sales are no different than utility sales, and should be given the same incentives as SO4 contracts.

Muni sales beginning after 09/23/96 should not be excluded as long as the muni is collecting the public goods charge mandated by AB 1890. That is the case for emerging technologies. If the munis are involved, the emerging technologies can sell to them. But it is not the case for existing technologies at this point.

The same language should apply to existing, new and customer incentives both over-the-fence and muni sales should be subject to incentives if they are done after we exit our utility contracts.

COMMISSIONER SHARPLESS: I have a question.

Marwan, would you like to ask a question?

MR. MASRI: I'm sorry. I'd just like to respond that

it is very clear in our mind in the report that in state generation that is to be supported. So if PV panels manufactured shipped out of the state are not eligible for support. If we find the exact reference we will I think clarify it, but that is the intention.

COMMISSIONER ROHY: Would you come forward with that, please?

My understanding, Marwan, is the staff and Committee intend that they be installed in California?

MR. MASRI: Right. Generation in California.

MR. ELLERY: Yes, Bob Ellery with Sierra Pacific.

I think the confusion comes in on page 34 where you talk about the distribution mechanism. There is in the first paragraph, second sentence reads, "Photovoltaics, for example, require a different form of support than that needed by central station technologies; photovoltaics requires broad industry-wide assistance as opposed to financial assistance for one particular facility."

I guess when reading that we came to the conclusion that if you're not supporting a particular facility, then you're potentially supporting a vendor of that technology and that therefore that vendor support -- I mean, because you've left it totally wide open as to the type of support. That you could, for example, provide a loan to a manufacturing facility to increase

their manufacturing capability, and that therefore, that vendor could sell his product in Indonesia and not into California.

So that's, you know maybe we're misinterpreting the words, but the words look to be very wide open.

COMMISSIONER ROHY: We want that to happen also, but not under this bill.

MR. ELLERY: I'm not against it. I agree with your statement, but I didn't think that was the purpose of the money.

COMMISSIONER SHARPLESS: Marwan.

MR. MASRI: Yes. On page 48, which is definition of emerging technology, we do say, "The term 'emerging renewable resource technology' is defined as a renewables resource technology located in California..." So in other words, the PV technology itself located in California.

I think what Mr. Ellery is pointing out on page 34, the intention there is that to capture the benefits of the economies of scale, that is to help A, an emerging technology come down on the cost curve, that the assistance will have to consider -- be in the context of what's happening with the total industry itself. And on a project-by-project basis when we miss the main purpose of that commercialization, which is to reap the benefits of economies of scale by reducing cost.

So it is not intended that the assistance would be given to any PV system that does not end up generating power in

California. But we can work with clarifying that.

COMMISSIONER SHARPLESS: Okay, fine. Noted point.

MR. JUDD: Thank you.

Rather than reiterate further points that had been made by Mr. Carlson, we again thank you for listening to us during the course of this. We hope we can find some relief during the session today.

We have tried to provide a method for the Commission to respond to the concerns of the existing renewable industry while meeting the 40/40 test in the bill. And we ask that you take the results of a recent numerical analysis that indicate that you can do that by allocating the specific portion of the consumer incentive money to new. If you'd take that under advisement as you make your decisions today.

COMMISSIONER SHARPLESS: Thank you.

Marwan, you had a comment?

MR. MASRI: If I may clarify another point --

COMMISSIONER SHARPLESS: Sure.

MR. MASRI: -- about over-the-fence sales.

COMMISSIONER SHARPLESS: Right.

MR. MASRI: That the Committee points out that one thing in common of over-the-fence sales and self-gen, one thing they have in common is that they are not subject to CTC. So it is not quite accurate that over-the-fence sales are the same as

utility sales. If they don't go through the utility grid they may not be subject to the CTC which is a large incentive in itself.

MR. JUDD: Well they are, however, metered sales, contrary to what the text of the report says. And we think that they should be --. What we want to do is incentives the reasons where our facilities get beyond their contract and over-the-fence sales is one way to encourage that.

COMMISSIONER SHARPLESS: Okay. Thank you, Mr. Judd.
Tom Hinrichs.

MR. HINRICHS: Commissioner, I'd like to pass out just a one-sheet document here.

[Document distributed.]

MR. HINRICHS: And I'm Tom Hinrichs, representing the Geothermal Energy Association.

In anticipating that you might make some specific changes today as you adopt things, I highlighted some areas for geothermal that have been addressed. And this is specifically to kind of highlight those and be sure that there is an understanding between the geothermal industry and the Energy Commission.

Item 1 is on page ES-12 in the third paragraph and the definition of "existing renewable resource facility." We would like to have added to that "or was acquired through utility divestiture on or after September 23rd, 1996."

In your report you have indicated that, and for

geothermal we're specifically talking about the possibility of PG&E plants at the geysers being divested. If that was the case, I believe your report indicates that they would qualify for AB 1890 money. So that I wanted to highlight just to see if that was an agreeable aspect with the Commission.

COMMISSIONER SHARPLESS: Well I'm not sure that the problem is you're trying to solve. Why would they not, if they were operational prior to September 23rd, 1996, what would ownership -- how would ownership affect that?

MR. HINRICHS: Well, they --

COMMISSIONER SHARPLESS: Are you getting to something that we're not aware of?

PRESIDING COMMISSIONER MOORE: Ownership by an IOU?

MR. HINRICHS: Let's take the geysers plants specifically. They are presently owned by an IOU. If those are divested during the process and they are acquired by an organization that then takes the output from those plants and puts them into the market and not under contract, I just want to be assured that they would qualify as existing facilities.

PRESIDING COMMISSIONER MOORE: Understand. And I think that probably the easiest way that we can make these is, Tom, make you points in the case where we are going to have to turn to counsel for a clarification, which we probably would on a question like this, we will do it at the end of the hearing.

So it's easier for you to get your points on, then we can take notes on it and respond.

MR. HINRICHS: Okay, fine.

The next one is associated with the item that has been discussed of a potential new geothermal project in the very northern portions of the state that likely because of transmission and contractual things may market their power outside of California. That could be all of the project output or it could be a portion of the project output.

The items that have been considered there in those discussions we have highlighted that finally we will take care when considering funding for generation from facilities that is sold to municipal utility customers or to out-of-state customers to ensure that reliability, economic development and environmental benefits will accrue to California IOU ratepayers. And applications for funding for such facilities will be required to make a showing to that effect. This is to cover that specific situations in Northern California.

The other one Bill Carlson indicated the desire to have some flexibility in funding in anticipation that you may consider staying with the production incentives. Looking at some specifics associated with the size of geothermal plants, it would be most efficient in the utilization of the funds. I'm not talking about additional funds, but just the utilization of them, to have them

paid out over an eight-year period rather than a five-year period.

We initially asked for ten additional, and insight indicates that an eight-year period would be adequate to maximize the efficiency. So that's a specific request that we have.

The discussion of additional funding coming out of emerging to existing in anticipation that those percentages may stay as they are, it seems like that the rollover ought to be into the new technologies of that three percent rather than the emerging. Certainly the intent of all of this is that after the transition period we are into a competitive market, so why not have that put into new technologies rather than emerging. And we, of course, support changing tier three target price to three cents.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Hinrichs. Appreciate your remarks and your submittal.

I'm a little bit behind the mark that I indicated, but Mark Timmerman.

MR. TIMMERMAN: Thank you, Madam Chairman and Commissioners.

PRESIDING COMMISSIONER MOORE: Madam Chair.

MR. TIMMERMAN: Pardon?

PRESIDING COMMISSIONER MOORE: Madam Chair.

MR. TIMMERMAN: Oh, I'm sorry. Madam Chair is gone, and Commissioners.

[Laughter]

MR. TIMMERMAN: Mark Timmerman with the California Manufacturers Association. I appreciate the opportunity to speak today. Out of turn here. I am leaving town quickly.

[Laughter]

MR. TIMMERMAN: I want to also thank the Commission -- for good reason. But after I've discussed this issue I think you can probably see we feel like we're the dog at the party anyway.

We want to thank the Commission for all the hard work. We know that AB 1890 is a very difficult timeframe and a tremendous task. We were cosponsors of AB 1890 and went through the incredible process that ensued.

I want to speak today on the consumer side account and the \$1,000 limit that has been put upon the industrial users. I think first it's important to note that under AB 1890 as people that negotiated on the \$540 million, we saw basically three benefits of the renewable program. One was reliability; two was diversity; and three were the environmental benefits that are accrued from the existence of various plants and new technologies that are evolving.

Specifically, the need for the \$540 million we believe was a viability issue, an issue that said that there were a number of entities that were evolving and might be able to compete in

future markets, but they could not compete under today's dollars. The fact is a viability issue is a marginal issue. It is whether or not plants in the future will be able to compete at a competitive price with those other producers of energy.

The thousand dollar limit creates a substantial problem, we believe, for those people that are producing the power, not so much for the consumers. The consumers will be bidding into and buying from a very vibrant market over time. But the fact is as a marginal issue if one cent per kilowatt hour makes a big difference to those people producing power, then the place where that one cent will be most noticeable will be to the educated customers out there.

If you're in a region where there may be one facility that is producing biomass power and there may be one facility that can buy the biomass power, it seems ridiculous that we would exclude that facility from buying that one-cent difference because they will be the facility who will give you the best market information and the best educational information on whether or not the penny makes the difference.

So we believe that what happens if you take this consumer side account and you exclude a part of the market that is a fairly well educated part of the market, that part of the market will find other markets. There is no doubt about it that they are going to be out there actively looking for the best priced power.

And I'm not arguing that in any way that they should somehow get a disproportional amount of the money, because then again you would be simply injecting yourself into the consumer side of the market. But what I'm saying is that if in fact a customer is available, it's an industrial customer and is available for that one cent, then you want to know that. You want to send the signal to that particular renewable that they are indeed very close to the marketplace.

COMMISSIONER SHARPLESS: Could I make a point?

MR. TIMMERMAN: Sure.

COMMISSIONER SHARPLESS: I think you're making actually the point that drove the Committee to the decision, and that is that we want to build a market that will be sustainable beyond a rebate. And it seemed to the Committee as we received evidence on this that the people who are going to buy green are going to find a value in renewables even if the price is higher than the going market.

And if in fact we are going to have a sustainable market, if in fact renewables will be above the market clearing price, we need to have a market that will continue to buy renewables for that additional value.

In the industrial world, you're driven by the profits that you can make, as well you should be. I meant that's not a bad thing; that's a good thing. That's what makes our economy

vibrant. But it doesn't make a renewable market sustainable necessarily.

And so it was a concern that we really ought to be focusing the consumer program in an area where we thought it could remain sustainable after the rebate. And that's really what has driven the Committee to take the position that it has. And sort of your argument would seem to support it.

MR. TIMMERMAN: Well, I don't disagree that there may well be a green market that is only a penny away from the competitive market. And to that extent, we support that and we're happy that residentials and agriculture and all of those people will be participating in that.

But to the extent that the viability issue of a renewable needed to have that penny to exist and the rest of that market doesn't evolve, it seems to me foolhardy to exclude a potential customer. Because if the industrial customers buys, I agree with you completely. They are going to buy strictly on the need because of the marketplace. They are going to look at it from a profit perspective and say, "This makes good sense."

In this particular case, we are only talking about one cent, and we're talking about viability, and we're talking about promoting the green market. What I'm saying is you're taking out of that mix the viability aspect of customers that can help that particular facility continue.

And the reality is if at the end of the transition period they are not now competing, correct, as the green market evolves if they are not now competing it's either going to dissipate and those relationships with big customers are going to become very important.

What you are doing in this case is you are prejudging that the big customers will not have the relationship. It will go elsewhere.

If that customer is within one cent, it seems to me that it meets all of your goals to want to develop those relationships.

The other issue that I think is worth noting is -- and this is not something that I think is huge for my members, but the reality is the one thousand dollar limit that you put in this, you know I think is -- that's why I said I think we're the dog at the party, because obviously you're throwing the dog a bone. One thousand dollars for most of our members is simply not going to be worth the paperwork. So it makes no sense to set the one thousand dollar limit. It really is kind of a slap in the face.

And I appreciate that there are compromises that people try to strike in reasonable situations. But the fact is most of our people are going to have to have at least two providers at that point, and it's not worth the paperwork to have that one thousand dollar provider.

Lastly, and I'll leave you with this, and I'll leave it

for the attorneys because I certainly am not an attorney, but I think that there is a question within 1890 whether or not this is not cost shifting; 1890 specifically says that there shouldn't be cost shifting. This is money. This is money basically taken out of the CTC pool. It is money that is agreed upon that came out of the CTC pool. It is a proportional dollar that comes from --

COMMISSIONER SHARPLESS: Actually it's a surcharge.

MR. TIMMERMAN: Correct.

COMMISSIONER SHARPLESS: There's a portion of it that -- but it's a surcharge.

MR. TIMMERMAN: It's a transition charge.

COMMISSIONER SHARPLESS: It's a surcharge as opposed to the CTC.

MR. TIMMERMAN: But it is part of the competitive transition charge.

COMMISSIONER SHARPLESS: Well, no it's not in reality. It's a surcharge that the Legislature allocated as a support to public policy programs. I think there's a vast difference there.

MR. TIMMERMAN: I think that the intent of the legislation was that there should not be cost allocations, cost shifting. I think that's fairly clear in the legislation. In this case the money comes proportionately from industrial and it's sent back unproportionally.

Again, I'm not even -- let the attorneys get into that.

Bottom line is this: That the purpose of AB 1890 was to create a vibrant market, a vibrant market for producers and consumers of power. We think that the goals of this program are very worthwhile. We think that this is mettling on the demand side in such a way that does not accomplish your goals.

I truly believe that if industrial users want to buy green power and this one cent makes the difference, they will be good customers for these people and you should not exclude them, and I hope you'll consider that.

COMMISSIONER ROHY: Mr. Timmerman, earlier this morning we heard a witness ask for an industrial cap at a percent of the industrial use of electricity, as my crude notes say. Is that similar to what you're recommending? So if industry uses 30 percent of all electricity, 30 percent of the rebate should go to industry? That's a question.

MR. TIMMERMAN: I'm saying 30 percent should be available to industry.

COMMISSIONER ROHY: Available, yes.

MR. TIMMERMAN: Yes. It should be --

COMMISSIONER ROHY: Is that the point you're trying to make?

MR. TIMMERMAN: Yes.

COMMISSIONER ROHY: And that's I think what an

earlier speaker was saying also.

PRESIDING COMMISSIONER MOORE: Yes, the Coalition indicated that.

MR. TIMMERMAN: I think it should be available.
Correct.

COMMISSIONER ROHY: Thank you.

PRESIDING COMMISSIONER MOORE: Thank you very much.
Kevin Williams.

MR. WILLIAMS: Good morning, Commissioners. My name is Kevin Williams. I'm with the Stanislaus County Department of Environmental Resources, and I'm here on behalf of Stanislaus County.

Stanislaus County and the City of Modesto are partners with Martin Systems of Stanislaus in the Stanislaus Resource Recovery Facility, an 800 ton per day municipal solid waste-to-energy facility. The facility generates electricity which is sold to Pacific Gas and Electric under the terms of a standard offer 4 contract. Obviously Stanislaus County is a stakeholder in the outcome of this policy report on the AB 1890 renewables funding.

In testimony given at public hearings before, and written comments to the Renewables Program Committee, Stanislaus County has expressed this concern that its technology is not included with biomass technology for purposes of renewables

funding allocation. Despite these efforts, and even though municipal solid waste technology is included with biomass under Section 383(a)(2) of AB 1890, the policy report places municipal solid waste and biomass technology in separate and unequal funding tiers.

I ask that you reconsider this decision, and place municipal solid waste technology in tier one with biomass technology. It is both logical and defensible to do this, as these technologies are comparable to each other in terms of technology, costs and benefits to society.

In fact, municipal solid waste technology is more similar to biomass technology than it is to the other tier three technologies such as geothermal, small hydro, digester gas and landfill gas in which it is now placed.

Aside from these similarities to biomass technology, municipal solid waste technology should be grouped with biomass because that's where AB 1890 puts it. In fact, if the policy report on AB 1890 renewables funding simply defined biomass to include municipal solid waste technology as it is in Section 383(a)(2) of AB 1890, our concern would be fully addressed. This in fact is the simplest fix.

Thank you for your consideration of these comments, and I respectfully ask that they be addressed in the policy report on AB 1890 renewables funding which is submitted to the Legislature.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Williams. I'm sorry I made you wait over your time limit.

MR. WILLIAMS: That was no problem.

PRESIDING COMMISSIONER MOORE: Appreciate your coming today.

MR. WILLIAMS: Thank you very much.

PRESIDING COMMISSIONER MOORE: Les Nelson.

MR. NELSON: Good morning, Commissioners. I'd like to ask, if I may, that Raju Yenamandra follow me. He's got a card in as well. He's going to speak on the same topic.

PRESIDING COMMISSIONER MOORE: Sure.

MR. NELSON: Thank you.

I'm here today, Les Nelson with California Solar Energy Industry Association. I'm here today representing not the PV industry but the emerging solar technology industry. I think that's an important distinction.

A lot of commenters today have made it clear that they believe that emerging technologies consist of one technology, and that's PV technology alone. And I thinks it's incumbent on everyone to recognize that there are many technologies that could fall into the emerging technology category. PV is one of them. PV is one of the nearer term ones, we believe, with some of the most promises of all the technologies.

However, there is no doubt in my mind, and in fact I've

been told from within the CEC that many other technologies, including some of those represented here today are already starting to make bids on being considered an emerging technology. So we recognize the difficulties that you've had to deal with in this process quite clearly, and understand that the accommodations that you've come to have led you to the point where you're at a ten percent allocation today.

We applaud your willingness to resist the numerous calls that we've all heard to go down below ten percent. We know it has been difficult to do that. Nevertheless, we started out at a much higher number, and I think we've come down further than any other technology category to reach the point where we are today.

All of this taken into consideration, we much still go on record as being in a position of strongly believing that ten percent is not adequate to do what we believe needs to be done to commercialize both photovoltaics and all other solar technologies in the years to come.

We believe that there is a great opportunity to attract new companies and new manufacturing facilities to the state. We believe that a 90 percent allocation to existing and established technologies, which is what on the face of it the recommendation is, would send an incorrect message to companies contemplating moving to the state. It also sends an incorrect message I think to companies who already are here and who are being actively

pursued by other states to move with significant incentives.

Again, all this is in context of the fact that we understand that this has been a very difficult allocation process. We think the record needs to be clear though that ten percent is below what we believe is needed.

To address just one point that was brought up today of the many that suggested that money should come away from emerging, it's apparent that some have not read the initial PV industry proposal and how it proposed to allocate funds, AB 1890 funds. It, in fact, would not send a dollar to manufacturers or vendors.

It would, in fact, send money to the end users to incentivise their purchase and the ownership of PV systems, which we believe is clearly the most market-driven mechanism of all those proposed here. Actually encouraging end users to own and operate equipment is the ultimate, and is actually where we believe this market will end up going eventually in years to come.

So while particularly after hearing the initial comments today we have no realistic hope that we're going to exceed the 10 percent number, we remain committed to pursuing a more equitable allocation in the months to come.

COMMISSIONER MOORE: Thank you, Mr. Nelson.
Appreciate your comments.

Our last speaker before lunch will be Dan Whitney. Oh, I'm sorry. Excuse me, I went straight past you. Excuse me.

MR. YENAMANDRA: I just want to make a quick comment. My name is Raju Yenamandra. I'm with Siemens Solar. And this morning I come here, I was not planning to make a comment on the existing technologies. However, after hearing some of the comments I'm compelled to do so.

The 45 percent that is set aside for the existing technologies really is front-end loaded, and by the time if you take cost of money into consideration, the overall actual money that you're going to be getting is over 50 percent. And anybody can figure that one out based on the cost of money of a specific industry.

That's one point I want to make.

The second one it is hearing the comments today it is very very obvious we are not part of the, quote, renewable industry coalition. And that comes very loud and clear. And I want to just say this, 25 percent of the worldwide production, manufacturing production, of photovoltaics is based in California.

We have had the leadership position, and we have maintained it all these years. We ourselves as a company Siemens Solar have invested over half a billion dollars in this technology, and we are right on the verge of being profitable.

What we have on our hands is we have Japanese manufacturers who are a four-year program with over a hundred million dollars per year in government funded programs, the grid

connected programs there, and we have no response to that one. So we have a real live industry here that is vibrant today that can and is being threatened by programs as fair, and we intend to stay in California provided there is an incentive for us to stay here.

And to that end, what we really request for us to make some future investments, both in technology as well as in infrastructure development here for grid connected systems, we strongly recommend that the 10 percent be raised to 15 percent and that could be clearly earmarked for photovoltaics and that might be very much within the framework of the 40 percent that you have for the new and renewable floor that you have in the plans.

And, also, this would help in terms of the timing, the four years that we have for this program would help in not only the product and technology maturing to bear that truly cost effective once the subsidies are taken away, but also it would have the trained installation infrastructure through education and other things that we are started already.

Thank you for your time.

PRESIDING COMMISSIONER MOORE: Thank you. And I apologize again for passing you by. Not intentional.

Dan Whitney.

MR. WHITNEY: Good morning. I'm Dan Whitney from the Sacramento Municipal Utility District.

SMUD is somewhat concerned in the constraints that are

included in the funding formulas as they may in fact impede the sustained orderly development of photovoltaics. In particular, SMUD experience shows the necessity to leverage all sources of funds for the success of introducing emerging technologies. With that in mind, we would ask that you would consider supporting flexibility in structuring the payment schedules that would be included in the consumer accounts.

The criteria should apply to the entire proposed project or program when those proposals come forward and consider the entire duration of the project and not be expended just on a year-by-year basis.

As you are well aware, there is a lot of support for renewable technologies, and SMUD has recently done a survey of some of its customers on this, and I have a slide here I would like to show.

This was done within our service area of our customers, and it shows the very strong support that we are hearing from our customers for the variety of these technologies. Clearly, solar stands far and above the others, and so the support and the whole program that we offer for solar through the AB 1890 program is certainly going to get a lot of attention on the part of our customers.

Are there any questions?

PRESIDING COMMISSIONER MOORE: No. Thank you for

advising us of the alternative market. We're assured that it's out there, and we have great hopes that it will be easily accessible by all consumers.

With that, I'm going to call a luncheon recess. We'll be back here promptly at one o'clock.

[Luncheon recess taken from 12:00 to 1:13 p.m.]

PRESIDING COMMISSIONER MOORE: Policy report on AB 1890 renewables funding, and again the same rules apply. We're going to ask you to limit your remarks to under three minutes and to elaborate on points that were not made in written testimony to each of the Commissioners. We'll take testimony, and we'll remand this to the Commission at large for a decision later this afternoon.

With that, let me open with Jim Kennelly and Alan Purves.

MR. KENNELLY: My name is Jim Kennelly. I'm representing the Counties of Orange and Sonoma, and the City of Sacramento, and also a broad coalition of organizations that support the production of energy from landfill gas. We would like to talk to you about four topics, and we're going to make them brief.

First, very quick background on landfill gas for those commissioners that aren't familiar with our technology.

Second, we need to correct some inaccurate information

that was given recently to the Commission.

And, third, we're going to show why you should return our technology and its associated funds to tier one.

And, finally, we're going to tell you what we're going to do with those funds to make ourselves more competitive and meet the market.

You should know there's 180 megawatts of landfill gas energy produced in California. That's represented by 28 plants, 23 of which are privately owned. We have another 10 plants that are shut down. And there's supposedly 500 megawatts of potential landfill gas yet to be developed.

Landfill gas is the only renewable energy that you're going to hear from that is required by state and federal law to be collected and destroyed. Now the current acceptable and probably most prevalent way is to flare that, just to burn the gas. However, the Clinton Administration pledged to the international community in the 1992 Rio Conference on Global Warming that the United States would make significant reductions in the greenhouse gases such as landfill gas.

And in the report that followed that the US has now put out and the EPA is following with an entire division. There is a specific goal that says that landfill gas should be used for power generation.

We'd now like to take up the second topic, and that's

some inaccuracies that we would like to correct.

MR. PURVES: My name is Alan Purves, and I represent Laidlaw Gas Recovery Systems as well as being part of the landfill gas industry coalition.

I'd like to begin by reviewing briefly landfill gas positions in the three draft committee reports issued.

In the first draft report landfill gas was included with biomass at a potential funding level of \$140 million. This we consider appropriate and supported.

In the second draft report landfill gas was moved to a tier two subaccount along with wind at a total funding level of 81 million. Although neither we nor apparently wind consider this appropriate, we recognize that not everyone could get everything they wanted, and in a spirit of compromise we accepted this recommendation and endorsed it.

In the latest draft report we were dismayed to find that landfill gas had again slipped a notch and was now in tier three with total potential funding of less than \$38 million, at perhaps zero if we believe some of the projections made today, and significantly lower target prices.

We believe that the Committee's decision to make this latest move was based on erroneous factual and cost information about the landfill gas industry. Today I'd like to set the record straight with respect to landfill gas costs, cost shifting and the

question of federal tax credits.

Unfortunately, as shown in this slide, landfill gas costs currently are compatible with the most costly renewable resources as measured by independent agencies of the state and federal government.

Some references have been made to potential cost shifting abilities that the landfill gas industry has because of a unique ability to shift costs to landfill operations. This is patently untrue.

As mentioned earlier, 23 of the 28 landfill gas plants in existence have totally different ownership from the landfill itself. The only relationship that exists between the two parties is a contractual relationship.

Eight of the landfill gas operations are at closed landfill sites. They have no landfill fee income and no cost shifting is feasible.

Both private and public landfill operations operate in a competitive environment. There have been examples in Southern California of both private and public agencies attempting to raise landfill fees. This has driven away volume with all the economic and environmental implications of hauling trash for longer distances.

And finally fee increases at public landfill sites may be subject to the California Proposition 218 approval process.

As a biomass technology, landfill gas, like other technologies, may qualify for federal tax credits. Wind is an example, also qualifies under Section 45 of the Internal Revenue Code. However, in the case of landfill gas the IRS has specifically ruled that direct electrical production from landfill gas without an arms seal does not qualify.

As a result of this, any federal tax credits belong to the owner of the landfill gas, not the generator of the electricity. And I would remind you that in 23 of 28 cases these are separate entities.

Secondly, any tax credit that does accrue to landfill gas is not 2.6 cents per kilowatt hour on a revenue equivalent basis as has been represented to you.

Section 29 tax credits for 1996 are just over one dollar per million BTU. This is equivalent to about one penny per kilowatt hour for a most efficient electrical generating plants.

Again, given that many landfill gas producers cannot use the tax credit directly, a funding mechanism has been used and a more realistic average revenue equivalent would be a half penny or less.

I would remind you again that this support is available only to the landfill gas producer, not to the electric generator.

What we would like you to do today we'd urge first of all that your final report to the Legislature recognize the true

cost structure of the landfill gas to energy business; delete specifically in your conclusions in page 24 that we do not need additional support; and Appendix A, page 4, remove the reference to the fact that we can survive in part by cost shifting.

We would like you to include existing landfill gas projects in their appropriate place in tier one with similar cost technologies.

And, Mr. Moore, I did listen very carefully to your opening remarks, and I guess I could make a visual point by throwing away all the pages that I've deleted based on specifically your reference that your current proposal was a well thought out document and I believe you said a tightly strung barrel. Relocating technologies from tier to tier is not possible without upsetting the overall balance.

I would, however, suggest to you that the precedent already established by moving landfill gas from tier two to tier three along with a specific \$10 million funding establishes a unique opportunity for the Commission to reposition landfill gas in tier one along with the \$10 million without creating the domino effect that concerns you.

In fact, we're simply asking that you reverse the change that you made from draft two to draft three, which we believe was based on erroneous information and reposition landfill gas along with the 10 million funding allocation.

PRESIDING COMMISSIONER MOORE: Thank you.

MR. KENNELLY: Our final point is one that has been brought up by the Commission, and a very fair one, and that is: What are you going to do with the money?

And I'd like to tell you that because if you put us back into tier one we've got specific plans, some of which are already under way, to use this money as a bridge to become competitive in an open market.

The first thing, and I think many other technologies will be doing this, are going to buy down capital. And it may be said it should have been done earlier, but it's going to be done now. In many cases it is. There's going to be staff reductions, and a lot of that is going to be down through consolidation.

We're looking at increased automation. For instance, automatic synchronizing. We're looking at re-mode operations. We believe the technologies here that we could have unattended facilities for further savings.

We know now there are new advancements in mechanical systems. For instance, dry manifolds for IC engines. Caterpillars develop this, and there is now more horsepower out of the same engine.

And finally we think they'll be the combining of operations on a regional basis. A good example of that is the Southern Bay Area where there's projects owned by various people

that could be combined.

Not because of AB 1890, but we believe that you will see, and it's already happening, and there's just a consolidation in the industry, some of the weakers are going to go away, but the strong will get stronger. And that's happening right now.

So finally, please, we ask you to move us back to tier one where we were, today, so that your report will show the legislators our true operating costs and profiles.

Thanks a lot.

PRESIDING COMMISSIONER MOORE: Thank you very much, gentlemen. We appreciate your comments.

All right. Next speaker is Wayne Rafflesberger. And I'm going to, with an eye on the clock, ask everyone to really stick to the three-minute limit or we'll end up losing Commissioners here for the vote.

MR. RAFFESBERGER: Good afternoon, Commissioners. I am Wayne Rafflesberger representing Coast Intelligent, Inc., a small micro cogenerator manufacturer.

And before you today, and I will make my remarks extremely brief, I just wanted to thank the Staff and the Commission for the report. I agree with it. I concur with it. We can work with it, and we look forward to working with the Legislature on your conclusions.

I'm a little bit out of sync in that at previous

hearings a couple of utilities, Edison and SDG&E in particular, have attacked us after I've been to the podium. So I don't really know what they're going to say. So I suspect they'll do it again today. They've been doing it since last summer, but with that proviso, I guess there's nothing more I can say since I don't know what they're going to say today.

Thanks again and congratulations to the Staff on their report.

PRESIDING COMMISSIONER MOORE: Thanks. I appreciate your comments. I guess that explains the comments on the part of all the IOUs saying they had to follow Wayne.

[Laughter]

PRESIDING COMMISSIONER MOORE: I simply put it in the category of, you know, had to get out early for a plane. Now I understand.

All right. Ross Burgess, Supervisor, are you here?

MR. BURGESS: Thank you, Commissioners and Staff, for your diligent work. You've had to tackle some very difficult problems and came up with some very intuitive and appropriate solutions.

I hope that you've all had a chance to review my prepared written testimony when which I suggest that the tiers are appropriate, the technology tiers are appropriate, but that the allocation to the various tiers of specific funds isn't. That the

end product could well be that none of the technologies survives if avoided costs is below what everybody is anticipating that it could be. And, therefore, in my prepared testimony I advocate that you eliminate the specific assignments of any dollar amounts to the tiers.

I would like to modify that suggestion to a hybrid. In fact, I would suggest that you eliminate the assignment of any dollar volume or any dollar amount to tier three.

Assigning those dollars to tier one with the proviso that the monies assigned to tier one be used to fill the void if one should happen to exist in tier three. Remain or retain the 2.5 cent target for tier three, and fill it out of tier one funds. By doing that you will have accomplished the specific request or requirement in the legislation to support the least cost sources.

Thank you for this time and the good work.

PRESIDING COMMISSIONER MOORE: Thank you. Joseph Greco.

MR. GRECO: Good afternoon, Commissioners. My name is Joseph Greco. I am Senior Manager of United American Energy, which owns and operates two renewable resource facilities in California.

We operate a 25-megawatt biomass facility in Williams, California, which combusts rice hulls to produce energy, and we operate a 12.5-megawatt facility near Modesto, California, that

combusts whole waste tires, approximately 6,000,000 per year, and produces electricity for about 18,000 customers, households I should say.

My testimony today will focus on the Modesto energy facility. This is our first appearance before the Commission. We have, however, attended and monitored the proceedings of the renewable program committee carefully and have submitted written testimony. We have assumed since the outset and continue to believe now that our eligibility is self-evident and no more in question than that of the biomass or geothermal facilities.

We have come forward today because of the current draft in the committee report in a surprising oversight that is entirely inconsistent with equitable treatment of all other eligible facilities, simply fails to recognize the Modesto energy facility and does not attain it to a proper tier. We ask you today to correct this oversight in accordance with the guidance set forth in AB 1890 and in the inference in committee report itself.

Actions on these issues today is justifiable for a number of reasons:

First, AB 1890 clearly states that renewable funds are to be used to, quote, support the operations of existing renewable technologies and provide fire suppression benefits and reduce landfill materials. Further, AB 1890 approves allocation of funds to those in-state facilities that generate electricity from other

than conventional power sources.

These two criteria are the test for eligibility, and Modesto facility clearly fits in both of them.

Second, the committee report itself also establishes the basis that our facility is eligible, but the report does not follow through with the appropriate action.

Let me refer you to the bottom of page 47 and at the top of page 48 of the draft. By this definition municipal waste, biomass or used tires that originate in California but are transported outside of California for combustion and conversion into electricity will not be eligible for support.

This statement establishes two realities: First, used tires are recognized as a separate class of fuel that has equal standing with the biomass and municipal waste facilities. And, second, by defining what is not eligible, the report also makes explicit what is eligible in-state combustion and conversion into electricity of the materials mentioned.

Third, the Modesto facility is the only whole waste tire-to-energy facility in California. As such, it is a technology in a class of its own serving to act as a public good and reduce the amount of tires put into landfill.

Fourth, according to the criteria of the committee report, which focuses on demonstrated need and taking into account their approximate average cost and other revenue streams, the

Modesto facility should be assigned to tier one of the allocation table. We understand that the assignment would not be opposed by others currently included in tier one.

It does have a demonstrated need. A cross profile is the same as that of technologies in tier one and is not eligible for current tax credits.

In regard to the future we can tell you that we have already taken steps toward cost shifting that will move the facility to a market competitive position over time. In February we introduced Assembly Bill 375 in an effort to modify waste tire disposal fees so that waste generators pay a larger share of our costs. Until this or a similar legislation is passed and implemented, we need to rely on the production incentives authorized by AB 1890.

In conclusion, we ask you take action now to include the Modesto energy facility in tier one of the allocation. We have demonstrated its eligibility for funding, its unique technical status and its eligibility for assignment to tier one using direct references from AB 1890 and the committee report.

On this basis, these reasons, and to ensure fairness and consistent treatment with all other technologies in your final report, we ask for your support for our request.

Are there any questions?

PRESIDING COMMISSIONER MOORE: Questions?

Commissioner Sharpless.

COMMISSIONER SHARPLESS: Yes. I appreciate you bringing this to the attention of the Commission. And I think you have laid out some grounds, but I would like to pursue one that you have indicated and that is revenue streams. There is currently, is there not, a 25-cent deposit on tires that goes into a fund currently that deals, is meant to deal with the disposal of tires?

MR. GREGO: It's meant to deal with the disposal of tires, but we are not eligible for those funds. They are currently being used by the Integrated Waste Management Board for the legacy piles and for grants which we have not been eligible for.

COMMISSIONER SHARPLESS: Why are you not eligible for that money? That amounts to about \$8 million a year, does it not?

MR. GREGO: Correct. And currently what the Integrated Waste Management Board is using those funds for is strictly for the legacy piles and for the development of new technologies for the disposal of tires.

COMMISSIONER SHARPLESS: I don't want to pursue this discussion, but legacy piles, what's a legacy pile?

MR. GREGO: Existing piles. For instance --

COMMISSIONER SHARPLESS: You're paying for existing

piles to do what?

MR. GREGO: To dispose of those.

PRESIDING COMMISSIONER MOORE: Well, they're piles of tires that have been there for literally decades.

MR. GREGO: Correct. Those are piles that have been there for a significant amount of time, and the Board is allocating funds for the remediation of those piles.

PRESIDING COMMISSIONER MOORE: Where there wasn't any 25-cent per tire commitment made. Those were simply pre the legislation.

MR. GREGO: That's correct, pre-legislation, and they're currently offering grants. In AB 375 --

COMMISSIONER SHARPLESS: It just seems to me that it's kind of a different situation than what we have heard from the other biomass facilities where there are transportation costs and a number of issues involved in biomass facilities that are using ag waste or that are using forest waste.

And here we have, you know, a situation where we have an existing revenue stream, we have legacy piles that are being dealt with I don't know how, maybe shredded, maybe made into road beds, I don't know what, but the economics of the tire situation I don't quite understand why the economics of the tire situation doesn't allow you to have a fairly cost effective fuel stream for the tire facilities.

MR. GREGO: The similarities to the biomass facilities are that in the current market the retailers collect the fee at the point of purchase. And then to dispose of those tires there are transporters who come and pay or get paid to dispose of those tires. Those tires can either go to cement kilns and go to other facilities, they could come to Modesto facility, but a large portion of those, which is currently 17 million, approximately are going to landfill. There's approximately a waste stream of 30 million tires.

COMMISSIONER SHARPLESS: So we're paying a deposit fee to send them to a landfill?

MR. GREGO: That, currently that is correct.

COMMISSIONER SHARPLESS: What's wrong with this picture?

MR. GREGO: We're trying to fix that in AB 375.

COMMISSIONER SHARPLESS: Well, I don't know how in AB 317. I meant you're just putting another five cents on 25 cents. It seems to me like they maybe they ought to deal with the 25 cents and how that's being allocated.

MR. GREGO: Currently Assemblyman Firestone and with ourselves are trying to solve the big picture problem. That was just a spot bill that was entered. We're currently trying to modify the language so we can solve the waste tire problem in the State of California.

PRESIDING COMMISSIONER MOORE: A pertinent observer would suggest that when the comprehensive and far reaching report from CAL EPA is out it should include some reference in dealing with this. We fully expect that.

COMMISSIONER SHARPLESS: Thank you for your comments.

MR. GREGO: Thank you.

PRESIDING COMMISSIONER MOORE: Tandy McMannes.

COMMISSIONER ROHY: Before that could I ask the Committee a question?

PRESIDING COMMISSIONER MOORE: Yes, sir.

COMMISSIONER ROHY: What was the Committee's thoughts when they put the report together, vis-a-vis tires? What is your recommendation?

PRESIDING COMMISSIONER MOORE: Well, we're going to come back to you with another recommendation at the end of today. Following the testimony here.

Mr. McMannes.

MR. McMANNES: My name is Tandy McMannes. I represent the Solar Thermal Projects, the SEGS projects as they're more commonly known.

I want to state that we support the comments made by Bill Carlson so I don't want to repeat those comments. But one point in particular that we brought up at the last meeting was the

request to raise the allocation to tier one from 25 to 30 percent. One of the things we're concerned about is that the information that the Committee is dealing with is maybe on some wrong assumptions, and we want to make sure that those are clear.

In working with the Staff I received a memo entitled "Rollover and Incentive Scenarios." And in that memo it responded to our requests for the five percent additional allocation by stating that, and if I read right from the memo it says, "Tier one doesn't need an additional five percent allocation. This is the only tier ever constrained by its cap with the current allocation."

Well, I know all the decisions made by the Commission are not based on one memo, but the facts in this memo are incorrect. And what I would like to request is that the committee report include in its final report a table that does show under the various energy prices how little money actually does go to the existing projects.

I, you know, we sit here and we hear 45 percent constantly, and we've been told, well, ask for more. That, you know, we don't dare go less than the 40 percent for new and emerging. But at 2.4 cents you already fell below the 40 percent allocation to existing projects.

You know none of us in the industry will argue with you that, you know, five cents is a number that probably would

preclude us from getting any funding at all, but at numbers as low as three and a half cents I show that the existing technologies only receive 16 percent of the funds of AB 1890.

[Roses were delivered in the hearing room.]

[Laughter]

COMMISSIONER ROHY: We do this for most witnesses.

MR. McMANNES: Actually I had those sent over.

[Laughter]

COMMISSIONER ROHY: Now what was it that you wanted?

[Laughter]

MR. McMANNES: As you know, solar is the renewable of choice so we felt like we were in a good position.

I just want the world to realize why we are standing here and asking for what we're asking is that we think under very conservative energy rates, and like I said at three and a half cents, you only have 16 percent of the money going to existing.

Now, I'm been assured or told that at the end of this process four years from now, you know, we may come back and do this again because there will be money available and market conditions will dictate how the Committee decides to divide the money up. But, you know, I'd rather not do that. I'd rather find a solution in the existing report that allows at least a minimum of the 40 percent, I prefer 50, but at least a minimum to go to the existing projects like the solar thermal and the biomass.

I think that we have effectively made our argument at the Legislature. I think that's demonstrated by the language in the bill.

And I get the sense, after having spoken with a number of you and the staffers, that we have failed to make argument at this body. We have no other choice, given the report failing to allocate what we think are adequate funds to the existing, but to try to make that argument all over again at some other forum. And we just think that we can get, at least we want to get some sympathy for the fact the three and a half cents is not an obscene avoided cost number, and that for the number to fall to as low as 16 percent should be viewed.

And the way we want to do that is ask that in the body of the report a simple chart, the memo in question maybe the numbers in here be corrected, and the numbers be included in the report so the whole world sees at what thresholds what levels of money we're actually going to get. And then we can deal effectively with the report maybe with the world seeing, and this is kind the results of what you guys had intended. And if those are indeed the results, then we take it to the next step if we need to.

PRESIDING COMMISSIONER MOORE: Thank you very much.

MR. McMANNES: Thank you.

PRESIDING COMMISSIONER MOORE: All Committee

members are aware that this will involve additional testimony at the Legislature, and we'll welcome opinions. I'm sure the legislators will as well, that are countervailing to what we've intended, or clarify an opinion about what we've intended.

MR. McMANNES: Thank you.

PRESIDING COMMISSIONER MOORE: Thank you.

COMMISSIONER LAURIE: Mr. Moore, if I may.

PRESIDING COMMISSIONER MOORE: Commissioner.

COMMISSIONER LAURIE: A number of witnesses have made reference to, or at least an allegation, that 40 percent is in fact not 40 percent. Does the Committee care to respond to those comments at this time, or in a position to respond to that inquiry?

PRESIDING COMMISSIONER MOORE: We will respond. Following the close of testimony, we will recap the major points that were made and we caucus during lunch to talk over some of these. And where a clarification is appropriate, and it may be in the case of something that was just said by the SEGS representative, we'll try and offer that to you this afternoon at the close of testimony.

Faramarz Yazdani.

MR. YAZDANI: Good afternoon, Commissioners. My name is Faramarz Yazdani. I'm a consultant in the QF industry.

As a way of background, I was with the California Public

Utilities Commission for about seven, eight years, and in charge of all the QF contracts towards the end. In '92 I left and became a consultant, and I have participated in most of the contract buy outs which have been over the last four or five years. With that background, today I'm representing New Charleston Power, which is one of those projects which did renegotiate its contract and had a contract buy out with Edison.

The points I want to bring up is that in your allocation of funds it seems that you have favored existing projects with 45 percent going to the biomass and other existing projects and a maximum of 40 percent to new and emerging projects.

The existing projects have gone through a period of 10 years of subsidized energy and capacity prices. And, you know, given the goal of AB 1890 and this Commission to make the industry a viable industry, I think it's an important point to remember that these projects had 10 years to use the excess money in order to bring themselves up to date with O&M costs and become competitive.

It strikes me that after 10 years of being subsidized it's a question whether another four years would do any good. In other words, you may subsidize these existing projects for another four years, but does that mean that that will make them viable for the next 20 years?

I think the allocation should be more in favor of new

and emerging technologies. This is, you know, opposite to most of what's been said today, but I think the promise in new and emerging technologies far exceeds the promise in existing technologies, especially those new projects which promise new approaches to strike a balance between renewables and fossil fuel components.

These new projects or new and emerging projects will not have the benefit of a fixed 30-year capacity price or a fixed 10-year energy price. They will be at the mercy of the market and will have to compete. So the incentive that you would provide for the first year would probably be the only incentive they get for the life of the project. Which means a four-year incentive will make the project viable for 30 years, and the return is tremendous.

If you look at a comparison between existing and emerging and new projects or technologies, you notice that if you spent a dollar on an existing project you're guaranteed that they will go on for another four years, the length of the program. But they have gone through a subsidy for 10 years and go through another four years, there's no guarantee that they will continue after that.

If the projects are profitable today, they probably don't need that much of a subsidy. If they're not making it today, they may not make it four years from now even after the

subsidy. But look at what a dollar will do for new and emerging technologies. Since their whole existence is market base, then a dollar of incentive to these new technologies will mean that they will exist for the next 20, 30 years.

PRESIDING COMMISSIONER MOORE: Faramarz, I've got to ask you to wrap up.

MR. YAZDANI: Okay. So dollars spent on old projects will get you four years. The dollars spent on new projects will get you 30 years, a seven times return, and I would like to suggest that you allocate more to new and emerging technologies and less to existing ones.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you, sir.
Michael O'Leary.

MR. O'LEARY: Good afternoon, Commissioners. I wanted to echo some of the points raised by Faramarz Yazdani.

My name is Michael O'Leary, and I work with New Charleston Power. And we're currently reviewing the feasibility of a major power project for the Imperial Valley which couples a large in vessel-type digesture facility with a natural gas combined cycle power plant.

We have been investigating various ways of dealing with an enormous accumulation of solid waste in the Imperial Valley that's generated by the agricultural activities there, and we have

arrived at a combination of two technologies that greatly enhances the viability of the project and creates a competitive facility in response to deregulation.

And it brings with it enormous environmental impacts and benefits to the county in the form of solid waste recycling. We are looking at approximately 350,000 tons of solid waste per year. We are providing an equal amount of digestive biosolids for land application and significantly reducing the need for in-field burning of ag waste in the county as well as providing significant air quality benefits.

When we looked at the digesture program in isolation, no matter how we manipulated it, we came to the conclusion that it would not be viable even with significant levels of support. However, when you graft that technology with another conventional technology, namely combined cycle gas turbines, the economics are entirely different. The viability is entirely different.

But in response to AB 1890 in order for a project such as that to be considered for any funding, one would have to separate the major generating components such that the resultant digesture gas and natural gas were not combined and you did not avail of the inherent efficiency advantages.

Consequently in order to avail such funding, one would forego plant efficiency, one would have to incur additional capital costs and certainly significantly higher operating costs.

And this I'm not sure is the intent of AB 1890.

However, looking at the definition of the rule, it seems that maybe that type of arrangement wasn't considered, and I think it would be a great pity if this kind of technology were not to be fostered as a consequence of AB 1890.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you.

Appreciate that.

Bill Short. Is Mr. Short here?

MR. SHORT: Yes.

PRESIDING COMMISSIONER MOORE: Your colleagues are here.

MR. SHORT: Yes. There will be two of us speaking today.

MS. ZAININGER: If I may just briefly say a few words. I'm Lydia Zaininger with the Geothermal Institutional Investors Group.

I thank the Commissioners and the Committee for all the work on AB 1890 and also for listening to the broad variety of stakeholders in the renewables industry, including ourselves.

We'll only briefly reiterate a point which we made previously. We believe the level of funding for tier three is too low. This belief is based on an overview of the capacity and generation of renewables as compared to the allocation of funds

between the tiers which we believe is inequitable.

For instance, QF geothermals represent 13 percent of total renewables capacity and 29 percent of total renewables generation. However, allocation of available funds is only seven percent for tier three, of which geothermal is only a portion.

What seems to be embedded in these three tiers is a needs test. Within each tier there will likely be some producers who need transition support and others who do not.

We recognize that the administrative burden of incorporating a needs test into AB 1890 funding for existing renewables, and in view of this we believe that a better balance of allocation of funding between the three tiers is necessary, barring that needs test which likely wouldn't be incorporated.

We'd like to ask Bill Short to just say a few brief words as well on how we believe we could achieve this better balance of allocation between the tiers.

I thank you.

MR. SHORT: Just a second. Let me ask, Tim, if you wouldn't mind the Commissioners a copy of this.

This is just something that I've asked Tim to photocopy, but very briefly what we believe, and to summarize, is that obviously we think that tier three is under funded given the number of technologies that are in there and the kilowatt hours that they generate.

And obviously we believe that it would be prudent, given the status of the consumer incentives, the fact that what's there is not necessarily would be generating at an appropriate time, that that would be an appropriate place to take a four percent from, reducing it from a 14 percent allocation to 10 percent allocation, and raising the tier three existing nets all the technologies that are currently in that tier from seven percent to 11 percent.

The other point that we wish to make is that the SRAC floor price, and what I've passed out to you is actually an excerpt from the PG&E Annual Report, and the portion that's in a box, as you can see, indicates that Pacific Gas and Electric's own estimate for stranded cost calculations is that the market price for energy would be 25 mill this year, rising at roughly 3.2 percent over the next several years.

So consequently the likelihood at a two and a half cent SRAC floor price, any monies in tier three being spent is limited. So consequently the geothermal institutional investors, along with the biomass, the GEA and other organizations, believe that this floor price should be raised to three percent to ensure that the monies that already are in there, and the ones that we're asking to be added, would be spent over the four-year term 1998 to the year 2001.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you.

Commissioner?

COMMISSIONER ROHY: May I ask your recommendation.
You said to raise to three percent. Do you mean three cents?

MR. SHORT: Three cents, I'm sorry.

COMMISSIONER ROHY: Thank you.

PRESIDING COMMISSIONER MOORE: Thank you,
Commissioner Rohy.

Thank you, Mr. Short. Appreciate it and your article as
well.

Karen Edson. Welcome a former colleague, a member of
this Commission.

MS. EDSON: Commissioners, thank you.

I'm here today on behalf of California Energy Company,
and I'd like to begin by saying that Jonathan Weisgall wanted to
be here and would have been but for an unexpected death in his
family.

I think you received correspondence from Jonathan, Mr.
Weisgall yesterday, and I just wanted to reiterate the major
concern that Cal Energy has and has to do with a single provision
of the report having to do with whether companies can qualify for
new development funds if the power's going to be sold to an
out-of-state entity.

In the case of the area that Cal Energy, and I think

other geothermal developers as well, hope to develop it is located in California the project would be developed and operate in California and would provide a variety of reliability, economic and environmental benefits to California and to IOU ratepayers.

And we have suggested some specific change to the language which would simply allow greater flexibility to applicants so that they could make a showing that that would be the result they could qualify to compete for those funds.

So again I just wanted to reiterate that specific change that Cal Energy had requested and to ask you to give it your consideration.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you, Ms. Edson. We appreciate your comments. And our condolences to Mr. Weisgall.

Bob Ellery.

MR. ELLERY: Good afternoon, Commissioners. My name is Bob Ellery. I'm with Sierra Pacific.

I'd like to talk for a few minutes about the emerging category, and I'm not going to tell you to move any money on it. But I am going to say that as drafted it seems to be technology specific. Namely, PV, and I think you ought to look at making it technology neutral rather than technology specific.

And I think it can be easily done if you look at some of

the criteria that have been established. Specifically, criteria number two which requires a five-year warranty. I don't know how that has any bearing on the definition of being emerging, but I think it will constrain the market.

Also, the criteria that requires a useful design life for 25 years, I think also has no bearing on whether something is emerging or not but will serve to constrain the market being that PV is already defined as an emerging technology.

The other issue that I'd like to talk about is that there seems to be a little disconnect in my mind between the RD&D and this money here. The two ought to work hand in hand, and it seems that the way this is structured where the bidding is up front, one shot, that projects in RD&D today have no chance of getting out of RD&D and into emerging in this program.

I think we could easily fix that by having the monies bid annually instead of one shot up front. The monies are spread 10 percent each year, so rather than have one auction in the beginning, if you allowed an annual auction for that money you would allow projects that came out of RD&D to be able to bid and get the money.

Again, it's just, to me, a little bit too skewed to technology specific, namely, PV.

The last issue is I think the document as worded, especially in the section under exclusions, left out all the

exclusions. Although I was talking with Marwan, he indicated that if you look at the charts, well there's things buried in the charts; but I think it needs to clearly indicate there are exclusions. That can, but I think it should be worded things like, you know, no utility owned, the muni situation, which I think everybody understands but is not in the document as it's worded.

I think in addition there should be similar conclusions or caps relative to the new. Things like the amount of funds to a specific project should be capped. The amount of money that could potentially go to a specific bidder or vendor should also be capped like new, so that one company could not come in and sweep all these funds. Especially if you're only having one auction.

Again, I just want to reiterate that the last point I guess is that the three percent should roll to emerging, not necessarily be earmarked for PV. And, matter of fact, I would recommend, quite frankly, that it be not earmarked for PV. That it be used available for new projects coming in and not just PV because there will be plenty of money here for PV.

PRESIDING COMMISSIONER MOORE: Actually, I think I can clear that one up right now. It's not earmarked for PV. At least not in our minds. It rolls to emerging. So at least that's what we intended, so we can lay that one to rest early.

COMMISSIONER SHARPLESS: Could I just ask two

points?

You say five-year warranty, no. What in its place?

Nothing?

MR. ELLERY: The existing technologies. I mean, the gas, biomass, none of those are systems are available with five-year warranties. I wouldn't have anything in its place, no.

COMMISSIONER SHARPLESS: Okay. And 25-year design life? Again nothing?

MR. ELLERY: It seems to me that the only way of demonstrating you have a 25-year design life is almost to be have a facility that's been operating for 25 years? So I don't know how you can be emerging with that criteria. So I would have nothing.

COMMISSIONER SHARPLESS: We are evolving into a new arena under the existing technologies. It was sort of a guaranteed rate of return. And under this we're more market based where perhaps warranty and design life are going to be meaningful to investors.

MR. ELLERY: But let the investors make that call.

COMMISSIONER ROHY: May I ask a clarification question?

PRESIDING COMMISSIONER MOORE: Commissioner.

COMMISSIONER ROHY: On the five-year warranty, the way I read it is that manufacturers must offer that. That does

not mean free, in my mind. Did you imply that was a free warranty?

MR. ELLERY: We did not.

COMMISSIONER SHARPLESS: We didn't imply anything.

COMMISSIONER ROHY: The offering of a warranty could be an O&M contract with a warranty in it.

MR. ELLERY: But it seems to me you're constraining the potential market. I mean you've got an emerging technology. By definition it's not been around for 25 years. And now you're saying to this vendor, you know, you've got to take a five-year risk on this technology. Well maybe you will.

PRESIDING COMMISSIONER MOORE: Well, you know what we're trying to avoid is the fly-by-night vendor who's not giving any risk. We want something that's got more robust development that allows itself to be a little bit better tested. And the 25-year forecast is just that. It's a forecast of reliability. It's not, we realize you can't have it by definition already proven for 25 years.

Thank you.

MR. ELLERY: Yeah. I would just think that there's enough technical people on your staff or available that could look at a system and judge whether or not it's going to last for 25 years or whether or not the system is, you know, good and capable, blah, blah, blah. I mean I would assume that would be part of the

bid situation.

PRESIDING COMMISSIONER MOORE: Appreciate your comments. Thank you.

John White.

MR. WHITE: Madam Chair, Members of the Commission, I'm John White with the Center for Energy Efficiency in Renewable Technologies.

First, I want to congratulate the Committee and the Staff for expeditiously and cheerfully carrying out this task. Mostly cheerfully.

I think Commissioner Moore's observation that the debate has been respectful, if contentious, is accurate, and I think we've all learned a lot. And I wish we had the benefit of this experience last year when we were negotiating and structuring the entire restructuring.

Our group includes a diversity of interests and elements ranging from the environmental community to some of the large developers of renewable technologies and efficiency. And we are mindful of the balance that you have attempted to strike and which, hopefully, can be maintained as a means of having this go forward absent further extensive deliberations by the Legislature.

For that reason, we'd like to extend our qualified support for the recommendation. We, I think, would generally prefer more resources for the emerging category than are present,

but we also take heed of the delicacy of the construct which you have developed.

We certainly would resist and strongly oppose any further adjustments particularly at the expense of new and emerging for existing. And I won't elaborate any further than I already have in the past on the reasons for that.

I also urge the Committee and the Commission to remain open to ideas that are still being discussed on implementation and the particular mechanisms that need to be deployed. I, for one, personally think that we haven't fully explored enough of the opportunities that might exist with financing options, both for emerging and for new.

I also think that the synergy between state and federal policy with respect to taxes and financing at the federal level are something that this Commission could end up providing some considerable input to the federal restructuring effort and how the federal government in its deliberations on restructuring, and the Department of Energy policy in particular, could enhance the work that you're doing and that we've all participated in rather than going off on a separate track.

So those would be our principal comments. I'd also hope that we'd get a better grasp of the public benefits question.

I'm, I think, disappointed so far in what I've seen out of CAL EPA with respect to quantifying and evaluating options for

ongoing public benefits, support for biomass. I don't think that effort is one that perhaps you can ignore. You may have to help augment that work and use the resources of the parties to improve upon that work product.

Because I think that once this report is adopted and implemented by the Legislature, we need to quickly turn our attention to how to sustain public benefits for renewable and other cost effective and important environmental technologies after the transition.

And I know that some members of the Legislature and some of the interest groups are troubled or unwilling at the moment to support that, but I think we need to first make the case analytically and substantively for why the public benefit renewables need to be captured long term. And I think that might make the process of the future easier than what we've been through.

Last I wanted to respond to comments from Mr. Timmerman this morning who I was astonished by his presence here, particularly given his lack of involvement in anything other than the allocation of stranded cost to the utilities in the restructuring debate.

I think that it is useful to have us think of green customers in all of their potential venues, including the commercial and the business sector, but I am troubled by the

prospect of somebody being able to slap together a deal for a couple large customers to suck up a lot of that money when there is no real green market in fact being developed here. And I think that we've got to be sure.

The residential customer's got precious little out of this restructuring so far. The customer incentives are one way that the customer, small customers, are going to be able to see some immediate benefits, and I would be greatly troubled by any change in that section. I think you've got it about right the way you've done it. And I think CMA already did pretty well in the restructuring debate and need not come into this proceeding and seek more benefits for their members.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you very much, Mr. White.

Kathy?

MS. TRELEVEN: Good afternoon, Commissioners. I'm Kathy Treleven from PG&E, and I did want to follow Wayne. I wanted to see if I could beat his record for brevity so far today.

PG&E believes this is an excellent report that represents a good example of government working as it should. It's clear that this question of allocating the money is too contentious for completion in terms of a consensus process, though we did get pretty far in AB 1890 and in the different parties that

came here; and your committee work has really weighed and balanced many good ideas, many different interests and come up with a middle ground proposal that's workable, simple, fair.

We hope that the Legislature will support these allocations and distribution of funds as you've outlined in the report and will give you the tools and any additional direction you need to implement it. And we'll be back to work with you and the other parties in the many implementation details we've got to come.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you. We appreciate your support. Look forward to working with you.

Drake Johnson.

MR. JOHNSON: My name is Drake Johnson representing Southern California Edison today.

Edison Company, too, supports this report the Committee's put together. We believe that it, as others have said, it's a task that's been well done. It provides a balance. We think it provides a pathway for the renewable programs and business to move from one of a price supported industry to one to be competitive in a new energy market that's evolving.

We are mindful of the problems that will probably come as part of the administration of this. We plan to participate and be of, hopefully, of assistance in that process.

In response to Wayne's question, we still haven't changed our position on a number of the issues, but even that's a given. We still have some concerns about how the VOC gen rolls out in terms of the quantity, not opposed to the technology of the process.

We would hold to probably a different definition in terms of the fuel cell. But in terms of this report and its application, we endorse it. We ask that the Commission embody, adopt it and move it to the Legislature.

We thank you for this opportunity.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Johnson.

Ken Wiseman. Ken here?

MR. WISEMAN: Madam Chairwoman, Commissioners, I'm Ken Wiseman with Consumers Utility Advisors.

As the two Commissioners who have been so kind to be patient with us through this whole process will know, I came up here representing Kern and Tulare County growers who were interested in the fact that we thought we were going to lose our biomass facilities. We've already lost some. The ones we use now are threatened.

And as growers concerned that we would lose open field burning with the current concern over particulate matter and what would we do with orchards, primarily almond orchards, which we

replace about every 20 years and a considerable amount comes out of production if we were to lose open field burning.

Our concept was to form a group of growers that would become both generator and customer. Therefore, we have pitched to your concern, Commissioner, that you could access both sides if you indeed were doing that and appreciate that agriculture was added as on the consumer side account.

We're not in the business now, and I, you know, we're looking to get in the business if it's economic in the long term, so I apologize that we're kind of learning as we go.

And actually for a last minute suggestion, actually a suggestion that I think both John White and the biomass association might agree on, hard as that may be, in a positive spirit. Although John said he liked it as it was.

This actually came out of a session put together by our San Joaquin Valley Air District where a city councilman from Dinuba had approached me lamenting the fact that the biomass facility there had gone down, that the city had lost an opportunity to process a lot of its waste and that that facility couldn't really operate just on the amount of ag that it had. Which, as we understand, is true in that particular area.

And responding to Commissioner Sharpless' concern that industrials might not have as much long-term commitment to renewables, city and counties in this kind of situation certainly

would because they've got an incentive to take care their green waste, to pay more and certainly stay in the green market.

So my suggested last minute language here would be that municipalities that send fuel to a biomass facility can also qualify for the customer rebate for power purchased from that facility. Again, an incentive to stay in the business, to stay green and something that may be a positive for biomass.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Wiseman. I'm sometimes mystified, but I guess it's understandable how the process tends to generate last minute changes that somehow didn't come in in the previous seven months. But I understand the jelling process here so we appreciate your comments. I wish I'd gotten a little bit earlier, but appreciate having it.

Chris Trott. Chris here?

Roland Coombs.

MR. COOMBS: Good afternoon. My name is Roland Coombs, and I'm a partner in San Joaquin Valley Energy. We represent 55 megawatts of power. One time we did. We're down to 45 megawatts right now.

One of our facilities is sold and it's presently on its way to New Jersey.

[Laughter]

COMMISSIONER SHARPLESS: The vision.

PRESIDING COMMISSIONER MOORE: That's so loaded I --. Okay. Go on.

MR. COOMBS: Okay.

PRESIDING COMMISSIONER MOORE: What's he going to use that for?

MR. COOMBS: Our facilities are in Madera and Merced Counties, and they burn, at one time we burned 550,000 tons of waste from the valley. Mainly agricultural waste.

In 1995 we followed what the PUC and PG&E and our lenders asked us to do, and that was to take out a buy out. We paid down our debt, we took some of the money and held it in reserves thinking that the market would come back and we'd be able to go out and market power. The last two years we've tried to market power to both industrials and munis, but it's a very difficult market to break into because you're competing with PG&E or other companies and nobody really knows what a good price for electricity is.

I know we've argued about what the future might be in the market price, so we were facing a difficult time period and trying to continue and restart our plants. It's a difficult situation. We still pay our taxes; we still maintain our permits; we still have people in our facilities.

We're looking forward to trying to get out in 1998 and trying to restart our facilities. We have a big burden of over a

million dollars of costs of rehire and get the facilities back going again.

And what we're looking for is on the incentive side is we need a fixed amount of incentive. We can't go out and talk to customers and say, well, we might get a cent and a half, or we might get 0.1 cents, and try to formulate a contract or an agreement that's going to get us started.

Don't forget we don't have any capacity payments. All we're going to be running on is straight energy. And so, you know, we need something pretty firm. We know what our costs are. The costs of biomass in the valley are a little higher than some of the other ones because everything is processed and trucked to us. So it's a difficult situation.

We have talked to some industrial customers. We have some customers that are very interested in buying. They're large, but they meet up with our loads. I mean the benefits of biomass don't stop in the middle of the night. They go all the way around the clock. We're getting rid of land filled materials, we're getting rid of stuff that's open field burning.

On a residential schedule, all right, you know not many people use much electricity in the middle of the night yet our plants really don't turn, they turn down to about 40, 50 percent at night. So it's difficult to match up with a residential or even some of the commercial.

So the restrictions on the, you know, not to allow us to go and get, go after the larger customers, would be difficult unless we go, you know, it almost forces us into going into a market of which I'm not sure there's enough margin between everything to keep us going. So, you know, obviously we don't like the thousand dollar limit.

And we also have talked to certain municipalities in trying to get business with them. And we certainly wouldn't want, we want the incentives to continue to flow through them.

Don't forget the incentive is created from in the location where we're at, not to the custom that we sell into. We're creating and we're getting rid of this waste. We're cutting the open field burning. So it's not necessarily tied to, you know, somebody in Sacramento or somebody in the City of Los Angeles, you know, getting that benefit. The whole state gets that benefit, and I think everybody should understand that.

We're an example of somebody that did take the restructuring. And I know there's a lot of pressure on the QFs to restructure, get out of their deals, all right. If we can't survive under a restructure, where we've done what pretty much everybody's asked us to do, if we can't survive and we can't run a plant in a situation where we don't have any debt, then I don't see too much coming down the future. Okay.

Any questions?

COMMISSIONER SHARPLESS: Yes. I understand the time constraint here, too.

The first one you have said that your profile fits larger customers and that the customer credit section of our proposal would be beneficial to you if it were structured in a way that you could take advantage of it.

But you recognize that the money in that column only lasts for four years.

MR. COOMBS: That's right.

COMMISSIONER SHARPLESS: And it sounds to me like you have an ongoing need. That if these large customers are only going to be your customers if they get this subsidized amount of money, what is going to be your plan for after four years?

MR. COOMBS: I think the number one it's obviously with a biomass that we need other mechanisms to get drive our fuel costs down. I mean and that's really the essence. The operating costs within the plant are really not that high. It's just it's the mechanism of getting the prices down. Tax, you know, there's been tax incentives --

COMMISSIONER SHARPLESS: Do I understand that most of your fuel is ag waste and not forest waste?

MR. COOMBS: Yes. We're in a position where we get ag waste and landfilled materials are probably the two greatest flows. Under our permits we have to --

COMMISSIONER SHARPLESS: Are there any bills in the Legislature currently that would help shift the revenue?

MR. COOMBS: Well, the biomass group has proposed a certain number of bills to help shift that cost back to and help the -- I mean there's a sensitive thing when you try to shift cost directly to the farmers. I mean they can only take so much cost shifting, but we know we have this need.

As Mr. Wiseman said there is a PM10 problem in the valley. So if we don't take that material in, what's going to happen? You lost the asset. I mean we lost, one of our plants is gone.

COMMISSIONER SHARPLESS: I understand that. I was just questioning, no, that's tires. Is there anything in the Legislature right now that would help your particular?

MR. COOMBS: We don't have anything, but we plan on working.

The other thing is there are people in our discussions and in industries that are willing to pay for green energy, but they don't know what the differential is between, you know. If they pay us four cents a kilowatt for electricity, is the market price going to be two or is it going to be three. They don't know. And they don't want to pay more than what, you know, what the market's going to be, or that much more for it. So it's difficult.

There are certain companies --

COMMISSIONER SHARPLESS: You're going to have that problem in four years as well.

MR. COOMBS: I don't, well, there's no guarantee on anything, but, you know, that gives us four years to work on it and get to that rate.

COMMISSIONER SHARPLESS: Okay. I just wanted to get a clear understanding of your particular situation. I appreciate the information.

Thank you.

MR. JUDD: Ms. Sharpless, just for clarification, Mr. Coombs is one of our long time members of the biomass alliance. Wasn't it our last meeting we do have a bill introduced by Senator Costa supported by ag energy consumers.

COMMISSIONER SHARPLESS: Is it a fee on ag waste?

MR. JUDD: No, it's, the current form of the bill is a tax credit payable to the power plants whether they use ag waste, forest waste or urban waste.

COMMISSIONER SHARPLESS: So it's a general fund?

MR. JUDD: It is -- I'm sorry?

COMMISSIONER SHARPLESS: It's a general fund shift.

MR. JUDD: Yes, it is at this point.

COMMISSIONER SHARPLESS: Tax credit.

MR. JUDD: At this point.

COMMISSIONER SHARPLESS: Okay. Thank you very much.

PRESIDING COMMISSIONER MOORE: Thank you.

Chris Trott, try again.

MR. TROTT: My name is Chris Trott, and I work for Pacific Energy. I appreciate your patience in calling my name twice.

I wasn't really going to get up and speak, but as I've been sitting here listening to the potential problem that 40 percent may not end up actually going to existing, it seems like the Commission here has a little bit of a dilemma.

And I was just sort of, you know, back of the envelope-type calculations while I was sitting there, and it seems to me one option, and I'm not saying that you have to take this, but the numbers seem to work anyway, that taking your projections of short run avoided costs that you showed earlier, starting at, I believe, at about 2.8 cents and going up to 3.2 cents, you can achieve the 40 percent for existing if you do two things.

Number one, if you raise the target price for tier three to three cents. And you have to do both of these things in order to do it. If you do that, then you have to raise tier one from 25 percent to 29 percent. It's only an extra four percent, but it's just one potential solution.

COMMISSIONER SHARPLESS: What's four percent among friends? It's just you don't know which friend's going to be a

friend very much longer.

[Laughter]

MR. TROTT: You guys are probably going to kill me, but, you know, it's --

COMMISSIONER SHARPLESS: And it won't be controversial.

MR. TROTT: Okay.

PRESIDING COMMISSIONER MOORE: The killing she means.

MR. TROTT: I'm sure that, you know, there's more refined calculations that can be done, but it's just a potential solution.

PRESIDING COMMISSIONER MOORE: Okay. Thank you very much.

Christo Artusio.

MR. ARTUSIO: Commissioners. Christo Artusio, Environmental Defense Fund.

I would like to express EDF's support of the policy report. The report is fair, it is efficient, and we intend to support it in the Legislature.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you. We'll look forward to seeing you there.

Jody London.

MS. LONDON: Good afternoon. I'm Jody London from Working Assets. And I'll keep it as brief as I can. I'm sure I'll be under three minutes.

We're really thrilled to hear you say that you're inclined to give more certainty in the allocation mechanism for the customer incentives. As you're aware, Commissioner Moore and others, I'm sure, this is very important for Working Assets as we develop our business plan for bringing alternative power choices to Californians.

The one thing I would point out is that currently in the chapter on customer incentives in the report it says that there will be a monthly allocation, so I'm sure you'll have to adjust that if you reach a different conclusion.

And I also want to say it's interesting to me that I agree with the industry groups on that portion of the report that you need some certainty about the allocation up front. Where I really have to take extremely strong exception is to the idea that industrial customers should be able to take advantage of the one small piece of this entire process that will go directly to small customers, particularly residential and small business customers.

As you know from the last hearing, these customers have been voicing their interests in droves in purchasing renewable energy. And I'd hate to see them silenced by one or two large industrial firms.

And this is why we were nervous when we even saw the industrial companies mentioned at all. Because we really feel at Working Assets like we're on a slippery slope to cutting into any amount of benefit that small customers will ever get out of this process.

I mean if, you know, right now we're down to 14 percent. Originally there was a higher amount. I don't remember the exact percentages. If you take away 50 percent of the money, as I heard one of the witnesses suggest today, that's reserved for customer incentives and give it to industrials, that's only seven percent for residential and small business customers and some agricultural customers.

And I just think that that's an outrage. That's certainly not what the Legislature intended, and I really hope that you won't move forward with that.

We continue to believe at Working Assets that small customers are the future of the renewable energy industry. We have seen in our other socially responsible products that larger customers are not willing over the long term to make the kind of choices on a day-to-day basis that will sustain the renewables industry. And they just don't have the long-term commitment.

If you let the industrial customers in now, they'll gobble up this money. It's exactly what Commissioner Sharpless has been saying. They'll use the money over four years, and at

the end of the four years you won't have a strong customer demand because those customers will not continue to buy the renewable product.

So I really encourage you to not give in to these requests and to move forward. We like the report as it is, and we look forward to helping you with the development of an allocation mechanism.

Thank you.

PRESIDING COMMISSIONER MOORE: Thank you, Ms. London.

Our last speaker is going to be Eric Miller.

MR. MILLER: Thank you, Commissioners. Eric Miller, Chief Executive Officer of Foresight Energy Company.

Generally we would like to express our appreciation for all of the hard work and really endorse the report as it stands. And we believe that you've got everything in the barrel. We think it's pretty tight. It's extremely tight, but we think you've got it, you've got it there and would really urge that it be adopted in its present form.

I'd like to be specific, especially given the debate today, I'd like to specifically emphasize a couple points where I think you do have it right.

One is on the allocation mechanism. Your allocation mechanism leaves it to the market to decide to set the right for

the consumer incentive. It's certainly, by being after the fact, it will have less certainty in some regards.

However, there's about another, the CTC, a bunch of other things, most of the customer's bill is actually the way we've structured this restructuring during the transition is actually going to be uncertain, so this is certainly not the only point, the only part of a customer's bill that a marketer is not going to know what it is until it's over.

And that's going to present a real challenge. I mean it's going to be a difficult place to do business, but we think that it can be done. And by going with a market allocation mechanism, you make an important and critical difference compared to an up front mechanism.

We would love certainty. Don't get me wrong. I think that what we give up is more than what we gain by doing that.

The reason, if you do any kind of up front mechanism, one of two things is going to happen. You're going to pick a number that's going to be too high or it's going to be too low. And if it's too high, what happens is you end up setting a price point which is below what the market can work with, and you may actually find a point where you've allocated it all out and nobody can do anything, and the markets simply shut down. And then you have a situation of: What do we do now?

And given the number of rounds, you know, over a

four-year period, you know, we could be at the end before we figured out, before the market settles down enough to where you might actually get some results. So I'm very concerned with that if it gets too high that you simply will freeze the market, and it will be at a point where no one can do anything.

If you pick it too low, you'll get people out in the market signing up customers but at prices, expectations of support levels that aren't probably that aren't sustainable. And the next round you come back and the number drops a lot. And there may have been a whole bunch of suppliers who could make it on the first round and can't make it on the second round, and all of a sudden they are going out of business, they're changing prices, you create a lot of confusion in the marketplace.

We believe that it is possible to structure long-term contracts around this uncertainty. It's not easy. We wish we didn't have to do it, but at least by making it a market decision the resolution of that issue is within our control. We decide how to structure our agreements and our arrangements so that we can deal with that risk, and we're not facing a question of what's going to happen in the future.

And we believe that there are players out there who will actively pursue this market and can make that work. And I think it's the only way to get what I call a bankable certainty to the money.

Any type of up front allocation, people are just going to have to wait until they see where it turned out, and we'll have to start from scratch, and I just think it's not going to work as well.

So we think you've got it right and would urge you to continue and issue the report as written.

The second area is the inclusion of industrial, not so much with the \$1,000 cap, I think is not a significant concern; but I was quite shocked to hear today that the testimony to expand that. I think that will do two -- it's critical that that not happen from two perspectives.

The first is there just isn't enough money to go around to do all the things we want to do. It's not so much that industrial or cities and counties are undeserving of support. I mean those may be perfectly good projects, good things to happen. The problem is we don't have enough money to do all the things we want to do, and I don't think anyone disputes that those sectors are unlikely to be the foundation of a long-term sustainable market.

And a clear direction of the Legislature was this process was supposed to result in a long-term sustainable market. And I think the smaller classes are the only places where there is hope, more than hope, but I think a lot of optimism that that can be done.

And given that we got to make some choices, I think if you put the money there, you at least have a shot at accomplishing your goal. The money is already so limited, if you start cutting it down you're not going to have enough to create a residential market of sufficient size to be sustainable, and you will actually lose building any long-term market for renewables at all, and I think the whole principle and the real foundation of this whole program goes out the window.

Even though it seems like a small change, I think that's where we are now in terms of the funds.

And secondly, out of the whole restructuring process, AB 1890 allocated something like \$29 billion in funds to various types of citizens in the state. Of that, all but 54 million or 99.8 percent goes to one class of Californians, namely, large corporations, primarily industrial customers and utilities.

The residential customer, this is one of the only things they're getting out of this. The 10 percent cut is a loan. It's not any kind of reduction. And we think that, you know, that's not much that they're getting out of this. And if that's eroded further, I think that the small customers have to question really what this process in general, not just the 5/40 process, but the whole process is really doing for them.

So I think that it's critical that we maintain that. It's a balance. That everyone's giving up something, getting

something. We think you've got it right and would urge you to stick with what you've got.

And thank you very much for your consideration.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Miller.

COMMISSIONER SHARPLESS: Could I ask a question?

With regard to municipals, it was kind of curious that this issue even came up because couldn't a municipal act as a broker? Or a marketer?

MR. MILLER: Absolutely.

COMMISSIONER SHARPLESS: And take advantage of their customer base?

MR. MILLER: Well, yeah.

COMMISSIONER SHARPLESS: And there's nothing in our report that precludes them from doing that?

MR. MILLER: Sure. I would even go further to the extent they organize themselves as a municipal. They actually have an obligation to charge their own public benefits charge which could fund that sort of activity directly. So I think they've got not only the mechanism but probably the obligation to do something like --

COMMISSIONER SHARPLESS: So they need to get creative and innovative.

MR. MILLER: -- that outside of this process.

COMMISSIONER SHARPLESS: Thank you.

PRESIDING COMMISSIONER MOORE: Thank you, Mr. Miller.

I erred. We have one last speaker. Sheryl Carter from NRDC.

MS. CARTER: Thank you, Commissioners. I'm Sheryl Carter from NRDC, and I just have a couple of really quick points to make, and I'll see if I can't keep it under a minute.

The first point I want to make, or the first thing that I want to say, is something that I don't think you've heard nearly enough today. We support the report. We think you did an excellent job in trying to balance out all of the different interests in this proceeding.

We're also heartened to hear that this report isn't meant to be the implementation document and that further discussions are expected to take place on allocation mechanisms, detail and definitions. And we look forward to participating however we can in that process.

One thing I wanted to say and make clear was that we are opposed to any further erosion in the emerging technologies accounts such as was suggested this morning. And I am encouraged by Commissioner Moore's earlier comment that to do this would fail to recognize the role we expected these kind of technologies to play in the future.

Also this morning, Commissioner Rakow in response to the suggestion that the reduction in emerging come from the RD&D pot of funds correctly indicated that the RD&D allocation guidelines are still a work in progress. And we also support and appreciate her recommendation or suggestion that we not be looking to other pots of money to solve the problems that we have here.

That's it. Thank you.

PRESIDING COMMISSIONER MOORE: Thank you very much.

We appreciated very much all the comments and all the help that you've given us in guiding our formation of this recommendation to our colleagues and ultimately to the Legislature.

And, Madam Chairman, I'd like to ask for a 10-minute recess to allow us to consider the comments and the Committee members would be forthcoming with a recommendation to you as for the next step to take.

Thank you. Then we'll be back here at 10 minutes till.

[Recess taken.]

PRESIDING COMMISSIONER MOORE: Within ear shot of Commissioner Laurie, we could probably use your votes here.

Wait I have Commissioner Rohy's and Commissioner Laurie's proxies here. Willie Brown gave them to me and said I could vote them just whichever way I wanted.

[Laughter]

PRESIDING COMMISSIONER MOORE: Well, how's that? This is a first that we get the entire audience here before the Commissioners come back.

ACTING CHAIR RAKOW: Still shall we proceed.

PRESIDING COMMISSIONER MOORE: All right. I actually feel better at this point waiting until Commissioner Laurie returns before summarizing some of our remarks.

Let me do a couple of business items then regarding this just to sort of wrap up as we're moving forward towards the Legislature.

To my colleagues I indicated that we expect to be requested to appear before the Senate early in April. There are two hearing dates that I'm aware of at the Senate April 8 and April 22.

The procedures for producing a final draft, a final report, excuse me, of this from the Commission are as follows: We expect to have the comments tidied up and going to press by next week. And we've already made arrangements for the cover to be printed, so this is a pretty fast turnaround. There will be copies bound and distributed to the legislative members. Then by late next week we'll meet the deadline clearly before the March 31 cutoff.

And post that, we do expect to be asked to come up with an implementation report of one kind or another. Again, details,

as they say in the trade, film at 11:00 on that, we don't know what they're going to require of us.

Next, I would indicate that we have had a chance to discuss the morning and afternoon recommendations in part. Ms. Sharpless and I have been taking notes actually through this whole process, and we've been comparing notes about committee positions as the hearing took place in order to expedite the time involved. And I believe that I can summarize those to date, along with a set of recommendations for you.

First of all, let me reiterate that this is a conceptual document. That it does not intend to be unflawed, because we understand the errors that will crop up that we'll have to either change in implementation or that we'll fine tune in that process should the CEC be given the administrative responsibility for that. As with any set of regulations or banking systems, there's an adjustment that gets made on a day-to-day basis just to make the system more efficient.

Having said that, we will include, we intend to recommend to you that we include in the front end of this report an additional paragraph that would clarify that this is conceptual as opposed to an implementation document, and that we expect following legislative action on the report to have further clarification and/or implementation tools appear in a set of recommendations either from us or from some other body should they

be so designated.

So that's the first change that we will ask you to make when we offer a motion for approval on this.

Second, in the case of the request for change in language for the exception, if you will, for in-state producer tying to an out-of-state line, we accept that this is a judgment call on our part, and we suggest that no change be made in the report. And the reasoning is as follows:

We believe that the legislative intent of AB 1890 and the legislative intent to us in the renewables area is to foster a renewables industry that is competitive within the state. And that that implies that there's a relationship between energy produced within the state and distributed or available to in-state producers.

Where it's possible to show that an out-of-state connection, such as the one to Bonneville, is then encumbered through a contract back into an in-state consumer, such as BART in this case, it's insufficient to cause us to change our opinion that it violates the principle, again this is an opinion, but we had to come down on one side of it or another, that it violates the principle that we believe is inherent in AB 1890.

And, frankly, we think that it opens the door wide enough that we would have applications from many many other producers in the future that we can't define today, but it's a

risk that we're simply not willing to take. And we think that given the limited pot of money that we have it's more reasonable to not yield on this point and maintain our position about in-state production and in-state consumer demand. We ask that you not change that point in the report.

With regard to industrial consumers and industrial customers in the consumer category, we suggest that the \$1,000 cap be extended to every consumer in the category. We take note of the point that's made by CMA, but we are also worried that in this case if we open this up too widely there's the possibility that, frankly, the money gets used in a very narrow sense, and it doesn't do the final derivative what we're after here which is to foster a fully competitive market and foster consumer demand in largest scale.

So we suggest that the \$1,000 cap not be removed, and instead be extended over the entire category to indicate that no one single consumer of any type could take away more than this.

Now the reasoning behind this is that we believe that the -- and we recognize, that this would exclude large industrial consumers. We realize that there are large industrial players who could make good use of the renewable energy out there and might, in fact, subscribe to this very rapidly thereby accomplishing one piece of the puzzle which is to make sure that the available electricity from renewables gets consumed or that there is a

demand extant, but at the same time really excluding or pushing out that band of smaller consumers who, in the aggregate, we believe will make up the bulk of the competitive market in the future.

The large industrial consumers have other avenues that are readily available to them. They certainly have price power in the market, and they're not afraid to use it. They certainly have been after and are getting a direct access benefit. That was the whole reason behind 1890. Certainly the whole reason behind the MOU many years ago.

And so we think that given this small pot of money that we have we need to stretch it as far as possible while still achieving the general goal that we have which is to foster a robust diverse market for these goods. And we think that extending this cap across the category is appropriate, and we ask you to incorporate that change and accept that change in our earlier recommendation.

We ask that we change the recommendation in the tier three category from two and a half cents to three cents. We think that the evidence that's presented here today and in the letters that you've received would suggest that this might tier three, and, in fact, the whole existing category, more viable. We accept the argument.

We're still concerned that people are not taking into

account the real effect of the rollover or the potential rollover that we've designed which, in fact, if it is not used through the time T-4 becomes available and really can be distributed out and come back to existing technology in the recapitulation of the funds if market demand is such that it's under subscribed during the period.

We've seen various calculations of what the potential under subscription should be, or would be, and you've seen our tables and charts on this. Frankly, we think that the market is going to reward those producers in the existing category who make improvements, and that the costs, I'm sorry, that the market price is going to fall sufficiently that all the players are going to get a fair share of the pot. But we think this makes it just a little bit fairer, and we propose to raise from 2.5 cents to three cents.

In terms of the tire burner issue, a select issue that came to us, I'm going to take responsibility for this and admit that this was an oversight on my part, and that I simply didn't give it enough time and should have been listening a little closer to my colleague and to Staff about this. And I accept and accede to a change to add tire burners, this one tire burner category.

Certainly it's important for the overall landfill relationships in the state and do a little bit to extend our reach out and make whatever CAL EPA comes up with a little more viable

and we'll include the tire burner category. We recommend that we include the tire burner category in tier one.

Last, I want to address the question of cost shifting and suggest that we resist the idea that this is, in fact, an unfair cost shifting. Frankly, the money is coming from the consumers in terms of an excise, and we feel that if you were to take very literally this question of cost shifting as opposed to the language or the intent that's in AB 1890, all the money would have to go to the consumer account.

And, of course, we've already been through the arguments that constrain us in allocations to existing versus new and emerging. We resist that, and we suggest that this is an intelligent and reasonable way to allocate that it doesn't in fact involve any cost shifting and that perhaps CMA is over stepping their bounds a little bit in suggesting that it does.

We resist that and urge that the language remain the same in the report that you've seen.

And, Madam Chairman, both of us stand ready to answer questions from the Commission members with regard to our report. This is not a motion, but we're prepared to offer a motion to submit our report to you and from us then to the Legislature with these changes that I've outlined.

ACTING CHAIR RAKOW: Thank you. I have one quick question of clarification with the Modesto energy facility which I

was going to raise so I was glad to hear your recommendation. But my question is you had said that you were going to recommend that it go into tier one. It seemed to me that it might fit better into tier three, into the MSW category of tier three, the broad interpretation of municipal solid waste.

I don't know. I'm just raising that question. Avoid that. It's a better fit.

PRESIDING COMMISSIONER MOORE: It, in the sense that it is municipal solid waste.

ACTING CHAIR RAKOW: I see Marwan nodding. Good, I have one vote.

[Laughter]

PRESIDING COMMISSIONER MOORE: Marwan, the silent other vote.

Let me ask for opinion from Staff.

MR. MASRI: Well, right now our definition of MSW says anything that is not primarily from fossil fuel qualifies already to be part of that definition. In the database that we have in the Commission that we get from these on QFs, we have a list of type of fuel for each project. This one happens to be listed as tires, not MSW as others are listed.

And so clearly tires are a municipal waste, and it really could go in either one the way I see it. I had thought that our definition of MSW already included that one so long as

it's not primarily made from fossil fuel products.

PRESIDING COMMISSIONER MOORE: Well, the reason, and just to follow up on what Marwan said, the reason that we've suggested to you tier three, I'm sorry, tier one, is that there's combustion involved. And in the case of the MSW it's, you could argue that it's combustion because it's spontaneous or it's heat generation because of pressure and decomposition. But, frankly, I just didn't see it fitting in MSW because of the direct combustion that's involved. And the biomass facilities that we've had in tier one do represent direct combustion. So it seems to me as a mechanical matter it was a better fit in tier one.

ACTING CHAIR RAKOW: Well, it's whatever.

COMMISSIONER ROHY: You're getting a bit of discussion here among some of our witnesses that are out here. But I personally am concerned here because I, maybe I've not visited MSW plants, but I thought they did a lot of direct combustion, too, do they not?

So I'm confused. I'm not for tier one or two or three. I'm not advocating. I'm just trying to figure out what the reasoning behind the tier one recommendation.

PRESIDING COMMISSIONER MOORE: And I've taken you as far as -- I'm sorry, Marwan?

MR. MASRI: If I may add there's also more than the type of technology that determines which tier they go in. I mean

tier three has hydro and geothermal. Obviously they're not similar as far as combustion or non-combustion. So there's more to tiers than simply the process by which you convert.

ACTING CHAIR RAKOW: It's fine with me to have it in tier one. I was just raising the question of why. We don't need a general vote on it.

PRESIDING COMMISSIONER MOORE: And I appreciate Commissioner Rohy's comment about the fact that there is combustion in both areas. In this case it's a very limited exception.

But, again, what we have in mind is this cross over between trying to accommodate not only a support level but the broader benefits that are involved in tire clean up.

ACTING CHAIR RAKOW: That's fine. As long as it's in because I did have that concern.

I also have a concern which really isn't answered about the industrial being able to participate in the green program. I think if the big energy users participate in such a program, they would use it as a bragging right. They would have full-page ads showing that they are such clean good guys.

And you mentioned in the very beginning of your opening remarks this morning, Commissioner, that you were looking at the industrial people as being sort of a kick start to the incentives for this program. And so I was trying to put those two things in

place.

Although I sympathize, I mean I don't at the same time want to take away from the residential because I think that they are on the slim end of this big restructuring at least in the beginnings until it works out.

PRESIDING COMMISSIONER MOORE: Madam Chairman, you make a good point, and you remind me that I didn't make the point that I had intended to. And that is that we view the industrial base as very large in the aggregate of small industrial customers, and we do think that one of the advantages to them and the reason that they will come in and jump start this is because they will claim the environmental or green benefits of having consumed renewable power.

I think the difference comes in the assessment, and, again, it is a judgment call, about whether or not we should open this more widely to bring in the larger industrial consumers who are naturally smaller in number but have more volume in terms of their demand and also a steadier prediction of demand.

Do we bring them in? And if we do so, is it at the expense of a residential base that we really do want to foster? Because we want to bring them in and make them the heart of the new program, our judgment was that the smaller industrial performer, the smaller industrial consumer, was as important as the residential consumer. We just ought to cap it. And so we

consciously, but with a judgment call, ignored the larger industrial consumers.

Commissioner Rohy?

COMMISSIONER ROHY: I'd like to comment on this because I feel fairly strongly on this issue that the industrial customer should have an amount of money available to them in proportionate to the amount that they pay. So if they use X percent of the electricity, that money should be available to them. In the same way that we have fire walls in other areas, these people are paying a public goods surcharge like everyone else. They deserve to have a fair shot at the money in using it.

And so I think along with that argument and the fact, I believe one of the folks from the farm area, said that their loads matched better, the industrial loads often matched better the production of the electricity, that I would be on the side of allowing them, the industrials, the opportunity to spend up to the proportion that they pay.

COMMISSIONER SHARPLESS: Well, I was not compelled by that argument, Commissioner Rohy, frankly because one of the things that we're trying to do with the consumer credit side is to build a sustainable market. And that is sort of the underlying principle behind the consumer credit portion of this proposal.

And it seems to me that you could, in fact, have a lot of large, if you didn't cap it, if you try to give it a just a

percentage, say they are, I don't know what they are, 25 percent, if you gave 25 percent without any caps you could have two people come in and get the whole entire thing. Now you've got two people who may last for four years. But after four years when there's no longer a rebate there and they're driven by being cost competitive and getting cost competitive prices, they leave the renewable market.

Now, if they're going to be in the renewable market because they want to brag about it, they'll be there anyway. Got huge advertising budgets. They spend a bizillion dollars advertising their community service, being part of their renewable opportunity is one of the ways they can promote their community benefit such like they do in a lot of other areas.

So I am just not compelled to say that we ought to be giving them a percentage of the consumer column based on the amount of money that they might pay into a surcharge program. I think that they've gotten quite a bit of money in the 1890 bill to start with, and this is a very small pot of money to try to build a sustainable market.

So when Commissioner Moore offered sort of the option of, well, let's treat everybody equally, it seemed to me that in many cases by placing a \$1,000 cap that that actually would not inhibit the residential customer because they would never really bounce up against that ceiling.

COMMISSIONER ROHY: None of them would ever hit that.

COMMISSIONER SHARPLESS: Right. And so, you know, I'm not really compelled by the argument that if large industrial customers want to do renewables, they're going to want it for another value. They're going to want it for viability. They're going to want it for reliability. They're going to want it for diversity. They're going to want it because it shows that they're a green company. And they don't necessarily need a small rebate to be the additional incentive to do that.

PRESIDING COMMISSIONER MOORE: Well, Dave, the dilemma here is really, and it's fundamental, the dilemma is this responsibility of trying to foster and build the market and have it be as viable and robust, as I said before, in the long term as possible and trying to be absolutely religiously fair about the way you reallocate the money back out, for instance, on a proportion to what was paid in for the industrial customers.

So, again, it's hard to argue the substance because it's a judgment call with you.

COMMISSIONER ROHY: Well, you're describing motives to folks of the industrials and the small customers that I may not agree with you the way you ascribe those motives.

I mean it may be that small customers for the same reasons that you say the industrials will continue to do it whether they have the rebate or not after four years. It may be

they drop the program at the end of four years because they don't have the rebate.

So I can't see that one customer set would go one way or the other. I'm not compelled by that argument at all. So I fall back to the fairness argument that they paid for it, they should get some of that back. They should have the opportunity to file for it.

There are also very small industrial customers that would use more than \$1,000 worth of rebate. Might be \$1200 worth of rebate, and yet because they can't get it all, they may not subscribe at all.

PRESIDING COMMISSIONER MOORE: Well, I'm not sure I can go down the road on that one because I would find myself making a judgment call on every single application.

COMMISSIONER ROHY: And I'm ascribing motives, too, so I apologize.

PRESIDING COMMISSIONER MOORE: I know, but I'm more interested in the first argument that says, you know, we can't prove that the residential customer's going to be there at the end of four years any more than we can prove than the industrial one. Is that's more cogent for me.

I, again, I can't, since I can't argue with it, I can only say this is a way to solve it. It's not necessarily any better than your way. It simply is an attempt to make sure that

it spreads the money out, seeds, if you will, that might result in a better stronger market in the future, but I can't guarantee it.

COMMISSIONER ROHY: I understand the Committee's position that you'll have more people or more meters on a green power if you go on the method you're going. And I understand that as a possible foundation for building a broader, wider market, and I think that's the essence of your argument as I understand it.

PRESIDING COMMISSIONER MOORE: It is. It is.

COMMISSIONER ROHY: And I'm just arguing from the point of view that we're separating the money by those who pay for it making sure the benefits go back to those who pay.

PRESIDING COMMISSIONER MOORE: Yes. Well, I'm certainly open to argument.

Commissioner Laurie?

COMMISSIONER LAURIE: Let's, for the moment, restrict discussion to this particular point.

One, I recognize that I came to the renewables party late. Nevertheless, I understand the intent behind the legislation. I also understand the intent behind the report.

I did not author either. Nevertheless, I think the people having spoken through the Legislature did give this Commission and thus your committee a charge to address a certain societal issue to accomplish a specific purpose.

And I think the concept as written better addresses that

purpose. Whether it is fair may not be the question. The question is: Does it address the intent as ascribed to us by the Legislature. And I believe that it does.

I do not believe that one should be penalized because of their size. On the other hand, we have been given a specific direction through legislative intent. The question is: By which stated policy is that legislative intent more satisfactorily addressed. And I believe it is more satisfactorily addressed with some form of cap without a guarantee that you'll necessarily get back what you put in.

And there's something called taxation, and I'm not sure that any of us in this room necessarily get back an amount equal to what we have invested into the system. And I think the surcharge, has to be recognized for exactly what it is.

Thus, I would support the concept as currently written. Or some other form without a guaranteed return.

PRESIDING COMMISSIONER MOORE: Madam Chairman, with all due respect to the point that Commissioner Rohy has raised, I'm prepared to offer a motion to incorporate the changes that we have iterated this afternoon, and which I have just put forth to you along with the report titled "Policy Report on AB 1890 Renewables Funding."

I offer it to you for an affirmative vote and for advancement to the Legislature.

ACTING CHAIR RAKOW: Is there a second to that motion, and then there'll be further discussion once the motion is on.

COMMISSIONER SHARPLESS: I'll second it.

ACTING CHAIR RAKOW: Further discussion?

COMMISSIONER ROHY: Madam Chair, may I ask another question of the Committee.

I am concerned on the emerging technologies account, and the fact that there is one, what I would call auction, in mid 1998. And in that case any emerging, if that is the only auction, any emerging technologies have to be identified at this point essentially since we, the Commission, don't have time to identify other technologies.

So my question would be is there an opportunity to have at least two auctions somewhere in this process?

PRESIDING COMMISSIONER MOORE: Madam Chairman, I stand corrected, and I apologize to Commissioner Rohy. I had fully intended and just missed it on my notes.

Let me amend my motion to add the idea that in the emergent technologies section we'll incorporate, and I'd like to use the word "multiple" bids which encompasses the idea that we have already embedded in there that there would be two auctions. And so the word "multiple" I think covers that.

Should we in the implementation system determine that as

Commissioner Rohy as so amply pointed out there may be a need for even multiple, more than two, in order to take care of under subscription or to take care of a rapidly developing emergent technology section, sector, excuse me, this would accommodate it.

And I left that off. I apologize. I would amend my motion to include that.

ACTING CHAIR RAKOW: Is there any further discussion?

COMMISSIONER SHARPLESS: Yes, the second needs to agree to the amendment. Yes, I will accept that amendment.

ACTING CHAIR RAKOW: Further discussion?

COMMISSIONER LAURIE: Yes, Madam Chair, a couple thoughts.

Commissioner Moore, I had earlier asked the question regarding the charges or the allegations or the statements that there was somehow a mis-analysis of the concept whereby existing will, in fact, have 40 percent availability of funds. I think I understand the answer. I want to make sure that my answer is consistent with your thoughts.

If you don't mind, could you share your thoughts with me on that question, please.

PRESIDING COMMISSIONER MOORE: I'd be happy to. And again, the second oversight on my part, for which I apologize.

We anticipate that the report takes care of that

question in two ways. One, you saw our estimates both in the report and this morning in the overheads that were shown by Marwan on the screen wherein we forecast what the market behavior was likely to be.

We believe, and especially now given the raise from two-and-a-half cents to three cents in tier three, that there will be by the end of year four a relatively full subscription, if not fully subscribed, for all the existing technology money.

If there is not, if it is under subscribed, we believe that the rollover provision that we've got that would put the money back out into year T-5, and that would allow it to be re-allocated, you'll see language in the report suggest that this be reexamined in that year would allow the money to potentially, it certainly does not preclude this, to be potentially reallocated back to existing technologies.

I think we've anticipated that in two ways then. To recap, one, in the language that it allows for and does not preclude a reallocation to existing technologies. And, two, a forecast that, in our opinion, shows that this would be potentially fully subscribed.

COMMISSIONER LAURIE: Thank you.

Just one final comment then. First, I'm satisfied that both your committee with the assistance of Staff have really done an incredible job. And I look at the input received from

interested parties, and I thank those parties for providing that input. The questions have been very complex, and I don't know how a better result could have been achieved than what you have presented to this Commission.

There have been a number of important questions posed to this Commission regarding certain industries that we, through this report, cannot effectively respond to. I have a special place in my heart, for example, for biomass industry as it affects forest products. Not all solutions can be adequately addressed through this project and through this report. I am satisfied that this report correctly and very adequately addresses the commands of the Legislature, and I intend to support the motion.

Thank you.

ACTING CHAIR RAKOW: Thank you.

Any further discussion or comments?

With that, we have a motion before us that has been seconded to accept the renewables program committee report with the changes that have been so noted. I think it would be advisable to take a roll call vote.

PRESIDING COMMISSIONER MOORE: Can we ask Mr. Blees.

ACTING CHAIR RAKOW: Mr. Blees, would you call the roll for us?

PRESIDING COMMISSIONER MOORE: Not only legal, I

mean, you know, it's like having a uniform on. You know, it's lawyer.

COMMISSIONER SHARPLESS: Mr. Blees, in case you haven't done this before, you go alphabetically and call the Chair last.

MR. BLEES: Alphabetically and call the Chair last.
Commissioner Laurie?

COMMISSIONER LAURIE: Aye.

MR. BLEES: Commissioner Moore?

PRESIDING COMMISSIONER MOORE: Aye.

MR. BLEES: Commissioner Rohy?

COMMISSIONER ROHY: Aye.

MR. BLEES: Commissioner Sharpless?

COMMISSIONER SHARPLESS: Aye.

MR. BLEES: Chair Rakow.

ACTING CHAIR RAKOW: Aye.

[Motion carried.]

PRESIDING COMMISSIONER MOORE: Madam Chairman, with that, I just want to say, and I have something I'd like to get from the back room here in just a second, but let me just say this has been one of the most complex and challenging assignments that I've had in my public life. And I trust that the result, which represents sausage making I suppose that it's best, is viewed as a positive accomplishment for this agency and really a tribute to

the tremendous talent on this Commission.

I am very privileged to work with you people. And I want to say the review that Commissioner Rohy gave the report, I have to say, sharpened us up and asked some good questions. I hope that we're equal to the task on the up-coming reports. But I want to thank him specifically for those edits.

And if you'll indulge me for just a moment.

ACTING CHAIR RAKOW: I think that this is an example of governance at its very best. I mean the whole process from the very beginning is really a tribute, I think, to the people involved.

And as far as Commissioner Rohy is concerned, when I talked to him at 10:30 last night about another matter, he was rereading the report for about the tenth time. Oh my.

PRESIDING COMMISSIONER MOORE: Madam Chairman, thank you.

We're going to be losing our Chairman pretty soon.

ACTING CHAIR RAKOW: Like within 24 hours.

PRESIDING COMMISSIONER MOORE: And I want to tell you how proud we are all to have worked with her and have her leadership. She is a stellar person to work with and we'll miss her. I think you all miss her, and we owe her a lot. Bon voyage.

ACTING CHAIR RAKOW: Thank you very much.

[Applause]

COMMISSIONER RAKOW: Thank you very much. That's all I can say. It's overwhelming. This time I'm really leaving. Thank you all.

[Whereupon the meeting adjourned at approximately 3:30

P.M.]

CERTIFICATE OF REPORTER

I, **A. FLYNN**, a duly commissioned Reporter of **CourtScribes**, do hereby declare and certify under penalty of perjury that I have recorded the foregoing proceedings which were held and taken at the **CALIFORNIA ENERGY COMMISSION** in Sacramento, California on the **20th day of March 1997**.

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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

Dated this **24th day of March 1997** at Foresthill, California.

A. FLYNN
REPORTER